CASE AND COMMENT

"THE SKIES ARE BLUE AND THE TREES ARE GREEN,
AND I LONG FOR A LONG VACATION."
—ROBINSON.

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Case and Comment

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LADY MACBETH

LADY MACBETH AS A CRIMINAL TYPE

By JUDGE AUGUST GOLL[1]

(Condensed from The Journal of Criminal Law and Criminology, Jan.–Feb. 1939)

FEMININE criminality is one of the social phenomena that present-day criminologists are giving especially close attention, and which affords them much speculation. Woman is always a mystery and a surprise. As Ferri has it, she distinguishes herself by going counter to all the rules as it concerns criminology.

The fact is that if the same regulations were to govern her which in some respects are excusable in male criminality, then woman ought to be more criminally inclined than man. The exact contrary, however, is the case.

Feminine criminality is from four to seven times less pronounced than man's. On an average, woman is much less of an egoist; she is more altruistic than the man, much better at heart, more sacrificing. By virtue of her position as mother she is more closely bound to family life and family tradition. Generally she is more religious, even more national than man, and she has far greater respect for public opinion. Every social, moral, juridical "you must not" she respects and takes for granted, where the man may rebel against authority and pressure. Finally, she is not so exposed to the influences that so easily make the man close his eyes to the commandments, even in cases where he is not disposed to do so. Woman, on the whole, has fewer requirements than has man, and consequently is not so susceptible to the power of association and strong drink.

It is seen, then, that it is usually the women who have drifted away from the traditional family life or lead a secluded existence who join the criminal ranks; women who have come to live the lives of men and taken on their inclinations constitute the majority of the feminine criminals. In agreement with this we find that it is in the countries where woman's equality with man in the battle of existence is most advanced that we find the highest percentage of feminine criminals. As this equality becomes more and more general, we may expect that the criminality of man and woman will also tend in the direction of equality, in that the peculiar womanly qualities, which have heretofore been her protection, will diminish in the same degree that the common criminal impulses will increase. That is—if woman does not again appear as a surprise that defies all the rules!

Until this development has destroyed what remains of an ancient tradition we can still reckon with those special feminine qualities and their logical opposite, the typical feminine crimes. These qualities, which with one word we may term womanly altruism, to a very great extent prevent women from committing crimes where in men these crimes have their origin in brutal and reckless, or cunning and disingenuous selfishness. Since most crimes spring directly from such fundamental motives it is clearly seen that the feminine crime is comparatively rare. As an offset to this,

[1] Late Attorney General of Denmark. Translated from the Danish by Julius Moritzen, 4003 Foster Ave., Brooklyn, N. Y. This extract by special permission of the copyright owners is from a series of three articles on Criminal Types in Shakespeare in current numbers of the Journal of Criminal Law and Criminology.

feminine altruism exposes woman to the committing of crimes for the sake of others, and this, while not common, nevertheless is not without importance in the genealogy of crime.

Those are the crimes designated as typically feminine. But to fully understand the meaning it is essential to indicate clearly who are those "others." These "others" may reasonably be said to be the whole of mankind. History records its female as well as its male martyrs. The "others" for whose sake the feminine crime is committed are the same whom the specific qualities benefit, that is the husband, lover or child. Their happiness is her all. Insofar as she is able to let herself become possessed of an all-embracing feeling, their social and individual progress is the all-absorbing interest of her existence. What benefits them, takes precedence over everything else.

If the advantage is of overwhelming importance to those "others," and if the situation so shapes itself that she can gain this advantage, even though a crime be necessary, then she can commit this crime with much greater ease than can a man under similar circumstances. She does not commit the crime with a guilty conscience or as an ordinary criminal. She has the proud conviction that she is acting correctly, nobly, because she feels within herself that it is not for her own benefit; that she acts from the best of motives, to give that "other" the best of which she is able to give. She does not consider for an instant the disaster she causes. What are other interests in comparison with those she wants to serve?

While this typical feminine crime may not often be encountered in the great cultural centers of today we need but turn the pages of history to find numerous examples. If we venture but a short distance away from these centers we still find the conditions motivating feminine crimes in full bloom.

In Shakespeare we frequently find these typical feminine criminals. In Cymbeline she commits a crime for the benefit of the son; in Lear we see her act for the benefit of the lover. In Macbeth her labors concern the husband. Of these three instances, Lady Macbeth is by far the most interesting and conclusive.

It is quite true that the general conception of Lady Macbeth is not built on the characteristics here advanced. Commonly she is looked upon as a she-devil over whom the moral forces, fortunately, gain a decisive victory. What spurs her on is greed for power. Her driving forces are arrogance and conceit. She assuredly deserves her fate when, all too late, she dies insane in the fifth act of the play.

This conception of Lady Macbeth's character may be the nearest at hand, but whoever has occupied himself somewhat with Shakespeare knows also that the nearest-at-hand concept of his words and characters far from always represent his real meaning. Not seldom he gives his characters a kind of double aspect, an outer one for the broader, uncritical public that only cares for what happens, not why it happens,—and an inner, of which the key to the character's real nature is hidden secretly. Does not Lady Macbeth belong in the latter category?

Let it be emphasized at the start that at no place in the drama does Lady Macbeth indicate power and preferment as something attractive and tempting to and for herself. Shakespeare does not suggest in any way that the possibility of her becoming queen is in itself a matter of gratification to her, nor does the tragedy contain a rival that she would outshine by being raised to so high a place of honor. Even in her monologues, where she has no reason to

hide her real motives it is not her interests but Macbeth's that are her concern. She will oppose,

> All that impedes thee from the golden round
> Which faith and metaphysical aid doth seem
> To have thee crowned withal.

And she says:

> Glamis thou art, and Cawdor, and shalt be
> What thou art promised.

Only in one place,—in the first instigation scene,—does she employ the word "we" when mentioning the forthcoming elevation, and this in the most natural connection, since both are to work together toward the same goal, and therefore would share in the reward. In the place where the word "we" appears it is exactly the expression of Lady Macbeth's solidarity with Macbeth, not a desire for personal advantage.

MACBETH: *"This is a sorry sight!"*

As for Macbeth, his terse sentences often contain some turns that show how closely he feels himself bound to his wife. To him she is his all, and he often employs endearing terms, as for instance when he calls her his "dearest chick." Lady Macbeth, on her part, shows in her conversation with Macbeth a deep and genuine admiration; an admiration which is natural enough before this famous and highly honored man whose deserving fame is so great that messages keep arriving about his successes "as thick as hail." Macbeth is to her really "the noble husband," the great Glamis and the no less great Cawdor. In the joy of her pride before her husband's distinction no elevation for him is too great in her estimation. What would have been more natural, then, that he should have been chosen the future ruler of the kingdom? Was it not a disgraceful slight that the young, unknown Malcolm was preferred to her own famous husband?

Macbeth's letter tells her that he himself by no means is a stranger to the thought that he could of himself obtain what fate denied him, and she is immediately ready to stand by him. As she sees it, it is only his right that he wants to assert,—perhaps not the legal right of which she, as so many other women, has slight knowledge,—but the right which in her eyes means so much more; the right of his greatness. It is for this reason that she becomes so indignant when at the last moment Macbeth wavers and draws back from the act which alone can give him what in her opinion he has an absolute right to have. This is why she puts her whole mind and energy to the accomplishing of what she is fully

convinced rightfully belongs to him.

As a matter of fact, her final decision to commit the murder is by no means as easy a thing as it seems. Murder is always a serious and loathsome matter, especially to a woman. Violent and sanguinary deeds are, on the whole, very distasteful to women. Lady Macbeth's wild invocations show she had to combat her womanly feelings when she cried out,

> Come you spirits
> That tend on mortal thought, unsex me here,
> And fill me, from the crown to the toe, top-full
> Of direst cruelty! make thick my blood,
> Stop up the access and passage to remorse, . . .
> . . . Come thick night,
> And pall thee in the dunnest smoke of hell,
> That my keen knife see not the wound it makes—

This is not the state of mind of a person for whom crime is an easy thing when that is the only means for attaining a desired end. But it is Macbeth's future that is at stake and lies closest to her heart. His elevation is her goal, and in the consciousness of this she finds her mental strength with which to accomplish the deed. This also it is which gives her that unbelievable calmness with which she covers up the murder and fills her with the conviction that nothing else counts against the interests she has to protect. To what amounts the dead King—he was but the obstacle to that which she was striving after—hence he had to die. How can his corpse cause her terror:

> the sleeping and the dead
> Are but as pictures: 'tis the eye of childhood
> That fears a painted devil.

Again, what are the innocent attendants in comparison with the goal that beckons her husband,

> If he do bleed
> I'll gild the faces of the grooms withal,
> For it must seem their guilt.

Convinced that she has accomplished a heavy task, and a difficult one, and that because of this it should be appreciated and be met with joy and thankfulness when finished, she is filled with astonishment and is well nigh disgusted with Macbeth when she sees his bewildered and terrified appearance after the murder:

> I shame
> To wear a heart so white. . . .
> . . . Be not lost so poorly in your thoughts.

Lady Macbeth feels as does the warrior after the battle fought and won for the honor and glory of the family. What warrior stands pale and trembling after the dangers of the conflict are past? She is like the woman of the saga who kills the general of the hostile army in the denseness of the night and thus saves her country. Does she not, then, deserve to be honored by the one who is to her "her country," Macbeth, now that the great purpose has been attained? What reason is there to mourn the fact that the enemy has been destroyed?

It is otherwise with Macbeth. As men view these things, he knows that to carry the family feud into the midst of peaceful society cannot go unpunished, especially when considering the means employed. He realizes that he has committed a wrong that cries to heaven, that from now on he is looked upon as an enemy of society; that the crime is not only against the dead one, but against mankind, therefore,

> If it were done when 'tis done, then 'twere well
> It were done quickly . . .
> . . . that but this blow
> Might be the be-all and the end-all here,
> But here, upon this bank and shoal of life,
> We'ld jump the life to come. But in these cases
> We still have judgment here; that we but teach
> Bloody instructions, which being taught return

To plague the inventor; this even-handed justice
Commends the ingredients of our poison'd chalice
To our own lips.

It is the social retribution that is Macbeth's fear, and here is seen the great difference between his own and Lady Macbeth's attitude toward the crime. Against her viewpoint of the family rights, he places his, which concerns society. The development of the drama and its chief features rests on this conflict between the idealistic and the strictly material in the two concepts.

When suddenly a great change takes place in the life of an individual he seldom escapes the realization that he has become, as it were, a different person;—nearly always of less worth than formerly. Very often, however, this apparent change depends upon the fact that a wealth of new motives have entered the person's life and which now determines his actions.

To understand the nature of the changes that take place in the case of Macbeth and his wife after the crime has been committed and the aim attained, the new motives must be considered first of all. One would think that the elevation to the throne and the many new impressions and events in consequence thereof would quickly erase the recollection of what had happened. That this is not so is due to the fact that something wholly foreign entered the life of the really honest Macbeth, something so hostile to his innermost "I" that he simply cannot incorporate it into his individuality. The crime is just this new thing. It stands before him with such might that it blots out all other current impressions and possibilities. That he could have committed this horrible deed terrorizes him beyond all measure, and he has constantly before him the thought that there exists somewhere one who carries "stern justice's" sword of retribution to make him pay for what he has done. He not only fears men, but beasts, even lifeless nature:

Stones have been known to move and trees to speak
Augures and understood relations have
By maggot-pies and choughs and rooks brought forth
The secret'st man of blood.

The constant fear in which Macbeth lives causes him to cry out:

But let the frame of things disjoint, both the worlds suffer,
Ere we will eat our meal in fear, and sleep
In the affliction of these terrible dreams
That shake us nightly;

He sees danger in the most innocent utterings. The least disobedience, the weakest opposition makes him fearful. Could it be that retribution lies in wait for him there? It is this that drives him from violence to violence as a kind of self-defense, —from the murder of Duncan to that of Banquo, and as he seems to be unable to reach Macduff, to the murder of the latter's innocent wife and children.

The slightest suspicion is enough to bring his blood-laden executioner's ax into action until it goes so far that it is said of his rule that on each morning are heard the crying of widows, the sobbing of the fatherless, with new accusations rising to the heavens.

And now Lady Macbeth. What new motives manifest themselves with her, and how do they affect her? Not for a moment does she look upon the crime in any other way than when it was completed. She appears to have dismissed the whole affair from her mind in view of the ease with which it was accomplished. The whole thing was necessary in her opinion. Nor does it matter to her that Macbeth commits fresh misdeeds. As this was necessary to the upholding and strengthening of Macbeth's increased greatness, she is not one to let this disturb her night's rest.

What does affect her, however, is the sight of the man whom she worships ready to go to his destruction through despair and pangs of conscience which drive him to commit further outrages, which, instead of bringing security, only add to his misery.

This it is that troubles her:

> How now, my Lord! why do you keep alone
> Of sorriest fancies your companions making
> Using those thoughts which indeed have died.

And with a sigh she expresses her deep grief:

> 'Tis safer to be that which we destroy
> Than by destruction dwell in doubtful joy.

It matters little to her that Macbeth with loving care excludes her from the murder of Banquo; he adds immediately that evil must be furthered by what evil has begun. He indicates plainly that it was the original crime that she instigated which now evolved the consequences. Little does it matter that he tells her of the murder of Macduff's wife and children after the deed is done; did not she sow the seed that has sprung up? Such a plant can bear but one kind of fruit: destruction.

For a while Lady Macbeth struggles desperately to keep up appearances, as for instance during the banquet where Banquo's ghost shows itself before Macbeth. Here she is at her wits' end to cover up the inner distractions of Macbeth that show themselves in wild outbreaks, and her entire efforts are directed to having him preserve a semblance of deportment. This show of appearance is only half successful. The guests let on that they believe the King is suffering from a passing touch of sickness, while they cannot be in the least doubt that he is a marked man.

Lady Macbeth has to stand by and see her husband sink deeper and deeper into the mental abyss. He seeks relief for his malady among the most terrible powers of darkness. He no longer weighs his plans, as to whether his misdeeds will cause him harm. He sees relief from punishment only in striking blindly at anything that confronts him. The eradication of the last weak voice of conscience is all that holds out any promise to him.

Macbeth is now but a monster, a wild beast of prey that it is society's duty to strike down. And on the frontier is already gathering the army that is to prove his undoing.

Because in her indescribable unhappiness over all that has taken place Lady Macbeth fails to understand what is passing through the mind of her husband, she is finally overwhelmed by her misfortune. It is not repentance from which she suffers. Any insinuation of that kind is left to her surroundings. If the crime had been committed in the flush of passion, repentance might have followed in time. But she acted because of something that constituted her very being, to give Macbeth the best of which she was capable, and having the will to do, she does not even now waver a second. Without the least compunction she would again murder Duncan if it had to serve her end.

It is only when she finds that there is not a plank in sight to carry her shipwrecked husband safely to shore that her thoughts no longer look forward but of themselves reach back to past happenings. Like a caged animal which before the iron bars continues its rounds, so her thoughts return again and again to the point from which have sprung all her misfortunes: the murder of Duncan. Her dreams turn into endless broodings. She leads, as it were, a double-existence, a certain sign that her soul sense is on the point of dissolution. Constantly on the guard against those who watch her every look and word, she spends her nights in trying

to solve her eternal problem with such intensity that she has hallucinations and translates her dream-pictures into action.

Lady Macbeth does many strange and curious things. She repeatedly washes her hands. What does it mean?

It is the word that Macbeth uttered when after the murder he gazed at his bloody hands:

> This is a sorry sight!

In her somnambulistic state she constantly sees this word before her. Before this she repeated thoughtlessly after Macbeth:

> A foolish thought; 'say a sorry sight.'

Now she realizes that back of this word lies the answer to the riddle.

To Macbeth it meant that the crime had now entered into his life in such a way that it could never be gotten rid of. His honorable career had been eternally disgraced; his shield stained. From being the upholder of social order, he had become the enemy of it all. The die was cast.

But to Lady Macbeth all the past was but a stain that could be washed out! But it could not be washed out; not from his hand, which was becoming more and more sanguinary, nor from hers, which had guided him to nothing but suffering, torment and crimes.

Why could this little spot not be removed? Why could not all the scents of Araby take from this little hand the smell of blood? What curse had entered their lives with this blood stain? Why did this one spot bring so many others in its train? What made Macbeth spoil everything by his frightened behavior? Why is he so pale? What has been done cannot be undone.

Passing on the threshold of insanity, Lady Macbeth dies without having her questions answered. She was crushed by the social powers which destroyed her most precious possessions. But she herself never understood that these powers meant justice, the rights of all before the little narrow world which was to her the center of the universe.

She committed her crime for the sake of another individual; the crime crushed her through this other. This, as a rule, is the lot of the typical woman criminal.

THE Law Library at Yale has just opened an exhibition of early printed books, on the occasion of the five hundredth anniversary of Gutenberg's Strasbourg lawsuit. While most of the dates in regard to Gutenberg's invention of printing are controversial, records show that in the year 1439 a lawsuit was brought aganst him, and the testimony in the suit brings out the fact that a few years earlier he had formed a partnership with Andreas Dryzehn and others, to teach them certain arts, among which scholars generally agree that there is reference to printing. After Dryzehn's death, his brothers brought suit against Gutenberg to force him to give them their brother's place in the partnership, but did not win their case. Hence it is appropriate to mark the anniversary of this lawsuit, the first, as far as is known, in which the art of printing figured.

MAKING THE RECORD

By R. W. GRAHAM
Court Reporter, Topeka, Kansas

"Realizing the frailty of the human memory, whether it be that of the Judge or Counsel, . . . and the amount of the trial judge's time frequently consumed in settling a dispute between counsel, the legislature has made court reporters a part of the judicial machinery for the sole purpose of facilitating the accurate reproduction of trials in the nisi prius courts for review in this court." 13 A.L.R. 97.

Considering the importance of the record to all concerned, it would seem that trial attorneys would exercise the highest degree of care to be certain that nothing is omitted on their part which will contribute to its accuracy. While I have never examined the curricula of our law schools, the experience of many years at the reporter's table leads me to suspect that they do not include a course in "Making the Record." But lest anything in these observations be construed as a criticism on the one hand, or a plea in confession and avoidance on the other, let it be understood that they are offered as comments on the making of a clear and orderly record of trial court proceedings, from the viewpoint of the man who keeps that record.

The responsibility of *making the record* rests upon counsel, under the supervision of the court. The duty of *keeping the record* so made, rests upon the reporter. The confidence reposed in his ability to perform that duty, under the high pressure of modern procedure, is evidenced by the fact that the reporter is regarded by the bar and bench, for the most part, as an automatic recording device, endowed with human intelligence yet unsusceptible to ordinary human emotions and unaffected by physical limitations inherent in the human body; but possessing the advantage over a machine in that he does not have to be turned on and off, never needs oil and gas, and operates with equal smoothness and accuracy at all speeds, regardless of road and weather conditions or the volume of traffic.

The older members of the bar will recall the meticulous care with which pleadings were drawn, the evidence gathered and analyzed, and the law briefed. Preparation for trial included an arrangement for the presence of witnesses to prove, in logical sequence, each essential fact necessary to establish a case or meet the issues presented by the pleadings. Deference, consideration and courtesy between counsel, court and witnesses were scrupulously observed. Objections were specific, argued without interruption, ruled upon after due consideration, and exceptions preserved. But the accelerated tempo of modern civilization has forced itself upon our courts, particularly in the more congested centers of population. Deliberateness of utterance is rare among attorneys. The nervous, staccato style of the modern barrister results in slurring of speech, merging of words, sotto voce parenthetical remarks, explosive interruptions and a careless disregard of "off the record" discussions. A threatened attack upon a pleading results in a huddle of counsel and a gentlemen's agreement to an amendment or verification to be made later—which is brought to the court's attention for the first time on motion for a new trial—but the record is silent as to any such occur-

rence. The introduction of evidence begins with a witness called out of order of an accommodation; whereupon the suggestion is made that time can be saved by stipulating in regard to certain matters. This precipitates an "off the record" discussion between the counsel and the witness, and the examination—based upon an agreed statement of facts subject to objections as to competency which have not been stated in the record—begins without preliminaries with the question: "Now I hand you this—." Counsel then passes "this" to the jury, drowning out a muttered objection to lack of identification with the statement that it will be connected up later on; leaving it up to the reporter to get hold of "this" during recess, mark it as an exhibit, and use his judgment as to what the record should show.

Conferences between counsel and discussions across the table result in agreements or admissions which may or may not be brought to the attention of the court, but which are not stated for the record. Trial proceeds accordingly, and the record shows reversible error upon its face. The reporter who is wise recognizes the parenthetical statement, "Now don't take this," as a danger signal; for experience has taught him that the close of the parenthesis will never be indicated, but the examination will proceed upon facts developed off the record, with no attempt on the part of those making the record to account for the hiatus thus created.

Theoretically, it is the duty of the reporter to make a complete and accurate record of all that occurs during the trial of a case. In practice, the reporter who delivered a verbatim report of a trial would be questioned as to his sanity. If you think that is putting it too strong, the next time you are present but not participating in a trial, concentrate your attention (as the reporter must) upon the language employed by counsel and witnesses to express their meaning. Note the grammatical errors, the breaks in continuity, the repetitions, corrections, interpolations, interruptions, and "side remarks;" the lapsi linguae —plaintiff for defendant, Brown for Jones, 1934 for 1933, lease for mortgage, etc., which if reproduced verbatim would render the record ambiguous if not wholly unintelligible. A certain amount of editing of the record must be permitted, but this privilege must be exercised with judgment and discretion. If the testimony of the illiterate, evasive or uncertain witness appears in the record shorn of the qualities which characterize it, it carries the same force and conviction as the testimony of the alert and intelligent witness whose evidence is positive and unqualified.

A more difficult situation is presented where inadvertent omissions in making the record may seriously affect the rights of litigants. How far may the reporter go in making the record show something which did not occur, such as the formal offer of an exhibit, the proof of an undisputed yet essential fact such as the venue, the recording of an instrument, or the failure to connect up and complete the foundation for evidence conditionally admitted? Counsel upon whom rests the duty to make such proof can never be convinced, a month afterward, that he overlooked such a vital matter; yet if the reporter takes it upon himself to call attention to the omission at the time, he may find that his notes contain some caustic comments from counsel on the other side anent minding one's own business.

The reporter cannot escape responsibility for errors appearing in the record which are occasioned by faults of diction, grammar or pronunciation on the part of attorneys and witnesses,

or ignorance of the terms used by the speaker. It is his business to be familiar with all vagaries of speech and all vocabularies. Contrary to common belief, however, mere rapidity of speech is not the principal stumbling block of the reporter; it is the elisions, careless enunciations and hastily chosen words of the rapid speaker which present the difficulties. Uncertain or unheard words are subconsciously supplied by the listener later on, as the meaning becomes clear; but the reporter must get it as it comes or not at all.

Figures always present difficulties, since they have no context or natural sequence. Here, also, rapidity tends to ambiguity. "Forty-one-o-six" may be $41.06, $4,106.00, or $40,106.00. "Two-twenty" may mean a street number, cubic centimeters, or twenty minutes after two. Proper names, even when recurring, are easily confused. Hoffman, Coffman, Laughlan, Coffran, Cochran and Popham sound much alike from the lips of a rapid or careless speaker, while Przybylowicz or Joswoskowski are simply impossible.

Reasonable time should be allowed for marking exhibits before proceeding with an examination based thereon. When referring to an exhibit it should be designated by the reporter's mark of identification, for he may not know what instrument "I hold in my hand," and the answer may not clarify the record. Return the exhibit to the reporter before taking up another line of questioning. He can produce it when wanted quicker than you can dig it out of your files and memoranda, and no time is saved by using an exhbit as a bookmark. When an exhibit is offered in evidence it becomes a part of the record to the same extent as a question or answer to which an objection or motion to strike has been sustained. You may desire to make its rejection an assignment of error, and its contents become important. As the keeper of the record, the reporter is the custodian of the exhibits, and they should be turned over to him at the close of the argument. When the character of the exhibit is such that its withdrawal is desirable or necessary, the record should show a request thereof, with permission granted by the court for the substitution of a photostat or verified copy.

When the witness is being examined concerning a document, map or photograph, bear in mind that "Over to about here," conveys no meaning in the record. While physical illustrations are the most effective means of visualizing a situation, such answers as "About that long," or "He had a bruise right here as big as that, and another about there, but not quite so large," require the accompanying illustrative action to render them definite or even intelligible, and the reporter must violate the fundamental rules of evidence in attempting to translate such testimony into terms of ponderability.

COW IGNORES SIGNAL

GEORGE ZALOPANY, garage owner, wants $5,000 damages because a cow paid no attention to his hand signal, backed into his car, broke his arm and bent the fenders. The automobile was not in motion at the time.

"The cow evidently did not see my signal—or if she did, paid no attention," testified the garage owner.

The wayward cow was not hurt, according to testimony, and was chased back to the barn to be milked. Mr. Zalopany headed for a hospital where the broken arm was set.—*Honolulu Advertiser.*

A BRIEF GLANCE AT MURDER

By BURTON R. LAUB
Of the Erie, Pa., Bar

Starring the same George Jeffreys, Lord Chief Justice of England whom the London court of Aldermen referred to as being dangerous and obnoxious to the public peace, unity and prosperity of the empire.

OSTENSIBLY this is only the sordid biography of a lewd judge. Actually it is a chronicle of murder. Such a subject as homicide rarely makes for pleasant reading, but in a world where virtue triumphs with unceasing monotony, a history of immortal infamy ought to be cherished. At any rate, it would be impossible to record the life of George Jeffreys, Lord Chief Justice of England, without referring to his crimes. Undoubtedly he had other qualities than his penchant for judicial assassination but these have been lost in the labyrinth of time. The horrific slaughter of hundreds of unlucky men and women has made his name synonymous with terror and bloodshed, and his prostitution of criminal procedure has left a shameful stigma upon the profession of the law. It is a striking example of inexorable justice that, although he rose to the highest position afforded by his birth and training, all that remains of his life, hopes and ambitions is the pungent odor of hemp and the distant creak of the rack.

Perhaps the full blame for Jeffreys' misdeeds should fall upon his king. It would be unjust to exclude so villainous a monarch from consideration. In 1685 James II ascended the throne of England in place of his brother Charles. James was one of those fabulous and unconstitutional monarchs who wouldn't turn his back on his own mother without having first crowned her with a mace. It wasn't that James was a physical coward—his record as a soldier belied that—but the time he spent in poverty and squalor while under banishment in 1648 made of him a suspicious and cautious man. His sole fear was the machinations of his court. In keeping with this character he was lavish in his rewards and ruthless in his punishment. Jeffreys particularly found favor in his sight.

It was popularly supposed in 1685 that George Jeffreys never had a legal education. Legend had it that he merely donned a wig and announced himself as a barrister. Had this been true, the story of his life would have been much richer; unfortunately, however, the story was just a piece of malicious gossip. As a matter of fact he attended a number of schools including St. Paul's of London, Westminster, Trinity and Cambridge. His legal training he derived from five years of study in the Inner Temple of the Inns of Court.

Three years after he was called to the bar, Jeffreys became Common Serjeant of London. One could scarcely conceive of a position more suitable to his bitter, vitriolic taste than this. His chief function as Common Serjeant was to impose sentence upon convicted prisoners. This he did in a manner which gave an ominous foretaste of his later character as lord chief justice. Where other capable serjeants had contented themselves with perfunctorily discharging the duties of their office, Jeffreys needs must embellish and garnish his sentences with sarcastic irony.

Jeffreys' small group of friends sought to minimize his invective by

pointing out that he was suffering from a disease called "the stone." Whatever disease this may have been, it roughened his tongue until it bit like a rasp. The records are replete with his satire. In 1677 a man named Muggleton was convicted of blasphemy. In passing sentence, Jeffreys lamented the laxity of the law respecting punishment and proceeded to impose that which he called an "easy, easy, easy," penalty. This consisted in three days' pillory from eleven o'clock in the morning to one o'clock on the following day and a fine of five hundred pounds with the alternate of Newgate prison until the fine was paid.

His humour was worse than his bile. In imposing the death sentence upon two men who had stolen lead from the pinnacle of Stepney church he said: "Your zeal for religion is so great as to carry you to the top of the church. If this be your way of going to church, it is fitting you be taken notice of." Likewise, in passing sentence upon a bevy of female shoplifters he extended himself in bitter wit. Among other things he said: ". . . and, I charge him that puts sentence into execution to do it effectually, and particularly to take care of Mrs. Hipkins, scourge her roundly; and the other women that used to steal gold rings in a country dress; and, since they have a mind to it this cold weather, let them be well heated. Your sentence is that you be taken to the place whence you came, and from thence be dragged tied to a cart's tail through the streets, your bodies being stripped from the girdle upwards, and be whipt till your bodies bleed."

Most of Jeffreys' enemies accused him of being dour just for the sake of his unpleasant nature. Such was not the case. Jeffreys wished to attract the attention of the crown and to win its favor. So well did he succeed that in 1680 he was elevated to the post of judge in the common pleas court. Here he surpassed himself in loyal frenzy. The slightest hint of treason brought the froth to his lips, and if a defendant be out of favor with the king, he became a wild advocate for conviction. Such was the case when Francis Smith was brought to trial before Jeffreys charged with libel. Smith was definitely out of royal favor and hence became fair prey for the ambitious judge. But Jeffreys reckoned without the democratic institution of the grand jury. It refused to indict Smith. Three times the judge ordered them back to reconsider, but each time they returned with a refusal to obey his whim.

Jeffreys was now put to it to exercise a little ingenuity. He reached down into his sinister bag of legal tricks and pulled out a ruse which later sent ninety-four men to the gallows. He called Smith to the bar and offered to let him off with a fine of twopence if he would plead guilty. But Smith was represented by able counsel who saw through the slimy plan. Once the plea of guilty had been entered, the bonds of Jeffreys' benign promise would have broken. Acting under advice of counsel, Smith refused to enter the plea. This threw the judge into a blind rage. He ranted and raved on the bench like a demented thing, and then, calming down, he illegally re-committed Smith to Newgate prison.

These illegal and inexcusable actions aroused the grand jury to the point where the foreman, Elias Best, sought to secure an indictment against Jeffreys himself. Caution on the part of the other grand jurors, however, prevented such a rash action.

The irony of the situation was that later Elias Best was indicted for drinking a treasonable health. Know-

ing full well that he would be tried by Jeffreys and that he would secure scant consideration in his court, Best ran away and remained at large for four years. At the end of that period, filled with the romantic idea that great men forget past injuries, he had the stupid effrontery to call upon Jeffreys. For his moronic pains he was thrown into prison, pilloried and fined one thousand pounds.

On June 11, 1685, the Duke of Monmouth launched an abortive revolution in the West. The sudden conquest of the rebel forces threw all of England into a turmoil. Dozens of respective families had had their blue-blooded fingers in the muddy pie, and in a great many circles there was considerable unpleasant speculation. James was not long in resolving their doubts into material form. His first move was to cast about him for a seasoned assassin to send into the western counties to deal with the rebels. There were no close seconds. Jeffreys received the appointment out of hand. Thus was the inception of the "Bloody Assizes"—a circuit court which was destined to go down in history as one of the most bloody purges ever to be instituted by a high-handed monarch.

One of the big problems of the western assizes was to accomplish revenge against the rebels, to affright the seditious and to make a profit. It was rumoured in London that the King's western representatives had been dispensing mercy at a price. Few wealthy individuals were found among those who were being punished, and the truth of the matter was that only a golden key could open the gates of the western prisons. Jeffreys was therefore instructed to ferret out the truth and to turn the whole sordid affair to the advantage of the Crown. One foggy, bitter day he gathered his fellow judges about him and set off toward the setting sun.

The first court was held at Winchester where a few unlucky prisoners were tried, sentenced to death or transportation. It was in the happy decision to transport a number of prisoners to the Indies that the economic problems of the expedition were solved. Private operators of plantations were willing to give as high a price as fifteen pounds for each prisoner, f. o. b. the islands. From the defendants' standpoint this was tantamount to a sentence of death. Once beyond the English shores they were treated worse than slaves. Forced to work for periods of time which often exceeded twenty-four hours at a stretch, they were housed in barracks unfit for swine. Supervision of the work was done by bull-necked brutes armed with sharp pikes and whips, and only the imagination can supply the details which scrupulous history hesitates to record.

Another financial angle of the Bloody Assizes was the traffic in pardons. The perfidy of the king's agents inspired the court to a frenzy of commerce in royal justice. A pardon awaited those who had the price, and even the queen was guilty of accepting a number of "presents" in response to a favorable, royal decree. Jeffrey, himself, was not above the traffic. It is reliably reported that his estate in Midlands was purchased from funds milked from Edward Prideaux—a wealthy landowner who preferred paying fifteen thousand pounds for an acquittal rather than to have his decapitated corpse spread-eagled at a cross-road.

From Winchester the court journeyed to Salisbury. Here the shameful history of Winchester was repeated with expedition. But, when the court arrived at Dorchester, it was gaining villainous momentum. To Jeffreys' horror he learned that there were three hundred prisoners to be tried before his court would be free to

travel on to Exeter. This was distressing. Three hundred prisoners could take up a lot of a judge's time. The exigency of the occasion forced him to fall back upon the trick which he had so unsuccessfully employed on Francis Smith. Early on the first day of the assize, Jeffreys sent word to the prison that he would be exceedingly lenient to all who would plead guilty. He pointed out that the court would take into consideration their respect for the efficiency of the judges and the integrity of their promise. In the light of what had transpired at Winchester and Salisbury, it is not suprising that the entire company of three hundred prisoners pleaded guilty.

What a laugh it must have given Jeffreys to see so many birds fall prey to his snare. No sooner had the pleas been properly recorded than two hundred and ninety-two of the defendants were sentenced to death outright. Only eight received the benefit of the judicial promise, and these were transported. The historical fact that only ninety-four of these betrayed wretches actually were put to death does not detract from the disgraceful deception which had been practiced upon them. Patently, Jeffreys intended his sentences to be put into execution, and only the miserable traffic which obtained at London prevented him from becoming a perfect Judas.

The ninety-four executed prisoners were treated to a remarkable variation in the ways of encountering death. Some were merely taken out and hanged to a tree, while others received the special honor of hanging from a gibbet. In both instances they were assured, however, that their heads would be cut from their bodies and placed in strategic places on fence posts along the highway. The headless cadavers were dangled in chains at the cross roads—a detestable procedure which must have been exceedingly distressing to travelers.

Others of the condemned men merited a more fantastic type of demise. Where the defendant was high-born it was deemed that the ignominy of the rope was too severe. To these, the happy accident of birth prevented death on the scaffold. They were taken out and cut into quarters.

At Dorchester and Exeter Jeffreys indulged a few minor atrocities. At Taunton, five hundred and twenty-six hapless individuals were brought before the bar of justice. Of these, one hundred and forty-four were executed and two hundred and eighty-four transported. The fact that ninety-eight escaped the toils of the law indicated a woeful weakness in the Crown's cases against the accused. Undoubtedly the zeal of the Crown officers was carrying them too far in their business of making accusations.

At Bristol, which was the next stop after Dorchester, there were only a few prisoners to be tried. But here again the temper of the patient Jeffreys was sorely tried. From cases having little merit, the quality of accusations fell to the point where there was no evidence at all. Only the necessity for exemplary action prevented Jeffreys from acquitting them all. Out of sheer pique and the desire to faithfully discharge his commission, he wrangled a conviction in every case, and then, to emphasize his point, he devised some interesting innovations in the routine. The usual gibbeting and beheading was done, of course, but for a special few they prepared a pot of boiling pitch. At exactly the proper temperature the victims were casually dropped into the mixture.

The horrible circus closed at Wells. Ninety-four more victims received summary execution and two hundred and eighty-three were transported. Thus was the end brought to the

Bloody Assizes. Jeffreys and his associates were free to return to London to receive their reward.

One of the victims of the circuit was a man named John Tuchin. Tried before Jeffreys, he was accused and convicted of assisting in the rebellion. In comparison with some of the sentences imposed during the assizes, Tuchin's penalty was light. He was condemned to seven years of imprisonment with a whipping once a year through every market town in Dorsetshire. When the horrified clerk of arraigns heard this sentence he turned to Jeffreys and informed him that such a sentence meant a whipping every two weeks. The judge refused to listen to the plea or to change the sentence. After all it was no affair of his that Dorsetshire had so many market towns.

Oddly enough, a timely dose of small-pox saved Tuchin's life. While confined in prison the horrible malady overtook him. Such a castastrophe could only mean an epidemic in the prison and the loss of some valuable, kingly prey. Tuchin was promptly pardoned and lived to write a description of the Bloody Assizes from the standpoint of the accused.

It doesn't matter that there was some slight prejudice in Tuchin's attitude. After all, one of mankind's idiosyncracies is a penchant toward bias. The interesting thing about his tale is the phraseology which he employs. Speaking of Jeffreys he said: "He made all the West and Aceldama, some places quite depopulated, and nothing to be seen in them but forsaken walls, unlucky gibbets, and ghostly carcasses. The trees were laden almost as thick with quarters as leaves. The houses and steeples covered as close with heads as at other times frequently in that country with crows and ravens. Nothing could be liker hell than all those parts, nothing so like the devil as he. Caldrons hissing, carcasses boiling, pitch and tar sparkling and glowing, blood and limbs boiling, and tearing and mangling; and he, the great director of all, and, in a word, discharging his place who sent him, the best deserving to be the late king's Chief Justice there, and chancellor after, of any man that breathed since Cain or Judas."

History does not set forth the exact number of men whom Jeffreys put to death. It cannot be doubted but that he delivered the fruits of his commission on a wholesale basis, and the natural outcome was some expression of James's gratitude. Therefore, when Jeffreys returned from the West, the King almost immediately made him Lord Chancellor.

The goal was achieved. Years of bloody work on the bench had resulted in his elevation to the highest honor to which a lawyer could aspire. To conform with modern theological thought we would like to report that Jeffreys was now taunted by the spectres of his victims. Unfortunately such was not the case. His long servitude as a licker of royal boots did not even leave on his tongue the unwholesome taste of leather. With wild and reckless abandon he launched himself on a life of debauchery. At some of his social affairs he even reviled the bar of which he was the head, and on one occasion, he and the Lord Treasurer got drunk, stripped to the waist and climbed to the top of a lamp post where they drank to the king's health at the hazard of their own.

There isn't much more to the tale. On November 15, 1688, William of Orange landed at Torbey. Fully cognizant of the fact that his royal days were numbered, James II fled the country, leaving behind him his faithful and obedient assassin. As soon as Jeffreys heard the news, he made preparations to preserve his own tallow. Disguised as a sailor he char-

tered a boat in the harbor, and, pending a favorable wind and tide, concealed himself in the hold. One of the sailors, guessing the high-born character of the beggarly guest, sneaked ashore and gave the alarm. But Jeffreys, impatient at the delay and suspicious of every circumstance, went ashore and took up quarters in the Red Cow Inn in Anchor and Hope alley. It was here that he was ferreted out, concealed like a common thief beneath the filthy blankets of the bed.

So terrible had Jeffreys' name been that when he was dragged before the Lord Mayor of London, that dignitary actually shivered with fright. Much to the chagrin of the blood-thirsty crowd, Jeffreys was committed to the tower. There on April 18, 1689, he died of the disease which had wracked his body since early in his career. The will which he left behind him commanded his sons to obey the mandates of Christianity—the only religious decree he ever handed down.

It is only fitting that we take for an epitaph a contemporary poem by an unknown author published in the True Englishman.

"Let a lewd judge come reeking from a wench,
To vent a wilder lust upon the bench;
Bawl out the venom of his rotten heart,
Swell'd up with envy,
Over act his part.
Condemned the innocent by laws ne'er framed,
And studied to be more doubly damned."

UNDER GOD AND UNDER THE LAW

LAST week while momentously tragic events were taking place in Europe—events which have shaken the whole wide world—I sat in the superbly beautiful Supreme Court room in Providence and read over and over again the Latin inscription above the judge's bench. The free translation of it is this:

"Not under men but under God and under the law."

I was fascinated by it because it seems to me that these words make clear what ails the world today. In nearly half of it God and law have been pushed aside and forgotten to the end that a handful of ambitious men may pursue their selfish plans.

It is the record of history that whenever God and law have been subordinated to man's ambition, covetousness and greed, then despotism, outrage and denial of the rights of the individual are the inevitable results. . . .

Just compare conditions under the dictatorships with Article I of our own Declaration of Rights, which reads:

"All men are born free and equal, and have certain natural, essential and unalienable rights. . . ."

And with this excerpt from Article II:

"And no subject shall be hurt, molested, or restrained in his person, liberty or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments. . . ."

Or Article V of the Declaration of Rights:

". . . the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them."

And Article XXIX which states in part:

"It is essential . . . that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit."

Fortunate indeed are we in America that God is still revered, and fortunate are we that we still live under the reign of law and not of men.

—DAMON E. HALL.

ALL ABOUT DOGS

WILLIAM R. WOODBRIDGE, *Plaintiff*,

v.

WILLIAM D. MARKS, *Defendant*.

SUPREME COURT OF NEW YORK, 1895.

(14 Misc. 368.)

McLaughlin & Rowe (John C. Keeler, of counsel), for plaintiff.

Hand, Kellogg & Hale (R. L. Hand, of counsel), for defendant.

RUSSELL, J. The defendant demurs upon the merits to the complaint. The complaint avers that the defendant wrongfully kept several fierce and dangerous dogs, well knowing them to be ferocious, vicious and of a mischievous disposition and accustomed to attack and bite mankind; that on the 10th day of May, 1895, the said dogs, or some of them, while in the keeping of the defendant as aforesaid, attacked and bit the plaintiff and severely wounded him.

It will be observed that no allegation is made, in addition to the statements of fact as to the character of the dogs and their maintenance by the defendant, of any active participation by the defendant in the injury, or of any act of negligence on his part.

Is it necessary to add an allegation of this character to the complaint in order to justify recovery?

There has been much discussion in the books as to the standing of the dog, both as to the right of ownership in him and the limitations under which he may be kept and used. He has become now, if he had not before, a recognized article of property and adopted from the wild state into that of feræ domesticæ. As a pet, companion, watchdog or herder he has his uses, sentimental or otherwise. For his courageous and faithful qualities he has been admired by all walks of mankind and immortalized by eminent writers. More than 300 years before the Christian era Socrates said of him, "When I see some men I love my dog the more," and early in the present century Lord Byron wrote of him:

> "But the poor dog, in life the foremost friend,
> The first to welcome, foremost to defend."

And again:

> " 'Tis sweet to hear the watchdog's honest bark
> Bay deep-mouthed welcome as we draw near home."

At the present day this animal is one of those which are protected by the philanthropy of the society which believes and maintains that the lower animals should be shielded from cruelty as well as the human animal. He is thus recognized as entitled to his proper place in the economy of civilization.

But what is that place? The answer to this inquiry may solve not only the rights of the animal himself as a dog, but also the rights of his owner to use and keep him.

One of the ablest of the opinions in the jurisprudence of this state upon this subject is written by the late Justice W. F. Allen as far back as 1856 in the case of Wiley v. Slater, 22 Barb. 506. In that case the defendant had a dog evidently of superior ability in the fighting line to that of the dog owned by the plaintiff, so that in a fierce contention upon the merits of the respective animals the defendant's dog succeeded in depriving the plaintiff's dog of his existence. Being a supposably valuable dog, the plaintiff

sued the defendant and recovered for the value of his dog. It became, therefore, necessary for the General Term, upon an appeal being taken from the affirmance by the County Court of the justice's judgment, to determine whether, prima facie, the fact of the killing justified the recovery, there being no evidence as to which dog was originally the aggressor.

Justice Allen frankly confessed his incompetency to speak by authority of the code duello of dogs. He recognized, however, and judicially adopted, the poet's commentary on the nature of dogs:

"That dogs delight to bark and bite
For God hath made them so."

and judicially announced the rule that, when dogs fight in pursuance of their disposition to do so, the mere killing of one dog by another does not justify a recovery, and that the owner of the slain dog is entitled only to the salvage, consisting of the skin of the deceased.

He, however, limits the application of the rule laid down by him by the statement that there was no proof in the case that the dog triumphant was of a vicious or dangerous disposition, and the implication fairly is that, if this kind of a character had been proven to exist in the surviving dog, the trial court might have been justified in its judgment.

This was a case to determine the responsibility of the owner in a controversy between dog and dog. The rule should be stronger as against the owner of the offending animal where the victim of the propensities of the dog is a human being. Conceding the highest place here or hereafter to this companion of man which is claimed by any one, even to the faith of the Indian—

"That in the happy hunting grounds
His faithful dog shall bear him company."

still, in the walks of life he must give way to the interests of man. Whether this be so or not, as a question of pure ethics, it is so recognized by man-made law in courts administered by man. As against the dog, man has the right of way. It is not a presumption of law or fact that a human being is of a fierce, vicious or dangerous disposition. It is as yet the belief of mankind, recognized and acted upon, that the ordinary nature of human beings has the proper elements of kindness and justice. It, therefore, seems to be a necessary deduction that when a fierce, vicious, dangerous animal, accustomed to bite mankind, attacks and wounds a human being, the presumption is that the dog is the aggressor and the offender, which presumption may, of course, be rebutted, but, without rebutting proof, must be acted upon as well founded.

Starting with this presumption, as between the dog and the man, that the facts stated show the dog to be in the wrong, what is the presumed liability of the owner? It is an undoubted fact that owners have a right to keep fierce and dangerous dogs for the protection of their premises, if so guarded that they will inflict no injury, except in unusual emergency which justifies their resort to nature's weapons in defense of their master's belongings. Such a state of facts may well be a justification to the owner as well as the dog. But it is not to be presumed without proof; and, therefore, upon the ground that where a fierce, vicious and dangerous dog, accustomed to bite mankind, known to be such by the owner, attacks and wounds a human being, the burden lies upon the master to show the provocation or excuse, this controversy is decided.

The demurrer in this case is overruled, with costs, with leave to answer within twenty days on payment of the costs.

Demurrer overruled, with costs, with leave to answer.

CONSIDER THE LAWYER

By Chesla C. Sherlock in *The Marshalltown News.*

THERE has been a tendency dating back many centuries to castigate the lawyer and to hold him up to ridicule. Shakespeare wrote a line to the effect: "The first thing we do, let's kill all the lawyers!" Probably the Bard of Stratford still smarted under his numerous brushes with the law, such as poaching, debt evasion and seduction. At any rate, his blast has been quoted down the stormy years with approbation by many people who should have known better.

Necessary as the services of every professional man in a community are, none are any more important to the general welfare than those of the lawyer. Someone has said that we never think of the dentist or the physician until we have the toothache or a sudden attack of indigestion. It is certainly true that we seldom appreciate the value of the lawyer until we get into trouble, or come to settle an estate.

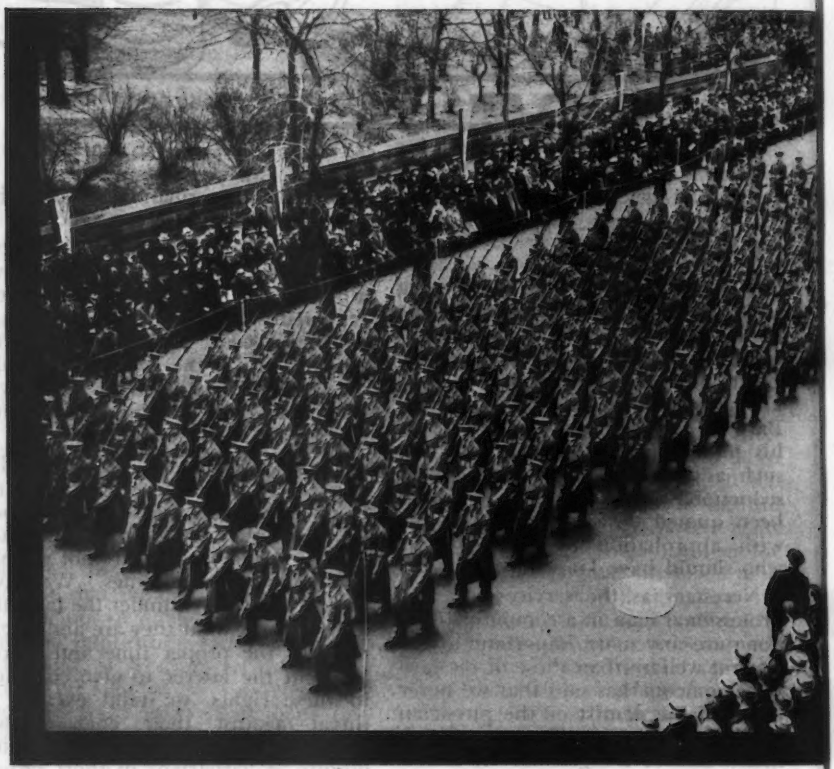
Yet the real worth of the lawyer far transcends these incidental services he renders in the course of his day's work. For one thing, he stands trained as an advocate of human rights before the law, a torchbearer in the vanguard of liberty. Every human right that has been won on the battlefields of the ages, he has consolidated into permanent gains in the forums and on the statute books.

He has ever stood for the triumph of right, for law and order, and above all, for respect for the law. His trade is to redress wrongs, promote justice, encourage peace and discourage litigation. He is the only professional man, aside from the Army and Navy, sworn to defend the Constitution and to protect our institutions.

Without him in the community the "rights" of mankind would amount to no more than the scraps of paper on which they are written. Liberty, and our rights thereto, are not permanent, imperishable things. We have no real rights, even under the law, unless we know what they are and assert them at the proper time and place. Without the lawyer to give currency to these rights, to stand ever as a threat against their enemies, we should resolve ourselves into a community of barbarians in short order.

When you see the lawyer in the community walking down the street in his quiet, unobtrusive manner, reflect on all that he stands for. When you see him in the courtroom pleading for the full consideration of the facts in the case as they affect his client, applaud him in your hearts that he is keeping alive the holy flame of human liberty. When you hear him in the public forum as an advocate for extensions in human rights and privileges, thrill to the thought

CASE LAW ON AR



Wide World

HERE they march in perfect order and unison. Led by commanding figures. Resplendent in their uniforms. Banners flying. Thousands watch and applaud this symbol of men at their best.

that in him you have a champion contending in the realm of reason, contending for progress in the only way that it can be hazarded.

ODE TO A PROSPECTIVE LAWYER

By Joseph G. Kronick, North Adams, Mass.

So you want to be a lawyer?
Well, that's just fine, my lad;
But before you start, count up the cost,
Or perhaps you'll wish you had;
For the law is not an easy,
Though an interesting game,
And you're sure of many cruel bumps
Before you win a name.

The first thing that I'll tell you,
And be sure you don't forget
(For I know a lot of shysters
Who haven't grasped it yet),
The law is not a set of rules,
That may be learned from books,
But the wisdom of the ages
And not the tricks of crooks.

There'll be several years hard study
Before a sheepskin you have won,
Then you will not be a lawyer,
You'll be scarcely well begun;
And after you have won it
And have hung your shingle out,
You'll have plenty of time to ponder
What the law is all about;

For there'll not be many clients
To your office who will come,
But what little things they bring you
Must be well and wisely done.
Your income, too, will be far less
Than a mender of the road,
And perhaps you'll then be tempted
Just to quit and drop the load.

But, after many months of waiting,
A good suit may come your way,
With the fee contingent on the sum
The defendants have to pay;
And perhaps you'll have a vision
Of some cottage painted brown,
And the girl back home who's waited
Since the day you came to town;

When you have spared no effort
In preparing for the trial,
And you feel so sure of winning
You can scarce repress a smile,
Then comes the day of hearing
And you'll never know just why,
But the court decides against you
And you'll kiss that fee good-by.

These are not all the troubles
You will meet along the way,
But are only a few samples
Of the price you'll have to pay;
But if you do not falter
Or neglect one single thing,
The many years of struggles
Better things to you will bring.

Now, if you're sure you understand
And you still are unafraid,
Just go right on and win, my boy,
'Twill be worth the price you've paid;
And I'll make just one suggestion,
This remember, if you can,
Every night look in your mirror
And be sure you see a man.

HOME *vs.* WORK

By Wm. Stanley Dunford, Provo, Utah.

I work, I slave, I fret, I chafe
At tasks in the daily grind.
I suffer shame at wrong things done,
And peace is hard to find.
By night, my head is nearly split,—
My ego has suffered shock.
I'd like to find a place to hide
Beneath some dark, dank rock!
I don't mean much to men, I'm sure.
In fact, if I died, who'd grieve?
My friends would drop *one* tear,—perhaps,—
My foes laugh up their sleeve!
I'm just about as worthless here
As all the rest of men,—
But when I'm *home,*—that's something else,—
There,—I'm a *man* again!

. . . . . .

I plead, I scream, I stamp the floor
In vain, to impress the court,—
While he sits there and frowns at me
And still retains the fort.
I argue long to make the point
I think *sure* will win my case,—
The jury sits, expressionless,

And gazes into space!
I'm just about as low a thing
As most of the other guys,—
I'm dumb!—I can't see anything
That's right before my eyes!!
That's what the public thinks of me,—
But when I'm at *home*,—Ah! then
I'm just as good as *any* chap!!
There,—I'm a *man* again!

CHARGE TO JURY

Charge of the Honorable John A. Valls, Judge of the 49th Judicial District of Texas, delivered to Grand Jury of Dimmit County, Texas, on February 6, 1939.

Contributed by A. P. Johnson, Carrizo Springs, Texas.

Gentlemen:

I feel that I know the high character and fine civic virtues that characterize each member of this Grand Jury. I know how dear to you are the institutions of your country. You love your community and your community loves you. It is indeed gratifying to see splendid citizens refusing to avail themselves of legal exemptions, refusing to avail themselves of personal excuses, and with an unselfish devotion accepting the responsibilities of grand jurors and giving their valuable time to their country and their State.

Gentlemen, the Grand Jury is of very ancient origin in the history of England, going back many centuries to the Magna Charta, where the barons with their hands upon their swords, upon the banks of Runnymede, demanded from a reluctant monarch, King John, the undoubted rights and liberties of the people of England. During the course of many years, the Grand Jury was not only an accusing body, but it also tried public offenders. In the course of time, however, it became only an accusing tribunal, and such was its function when the American Colonies won their independence from the mother country. During the long struggle in England between the powers of the King and the rights of the subject, the Grand Jury was considered as an institution to protect the rights of the subject against the impositions of the Crown. But under the popular form of our American institutions, the Grand Jury has never been called upon to protect the citizen against the oppressions of his government.

The power of the Grand Jury as well as its permanent character has been recognized and established not only in the Federal Constitution of your country, but also in the organic law of the State of Texas. By the Fifth Amendment to the Constitution of the United States it is provided that no person shall be held to answer for a capital or otherwise infamous crime, except through an indictment presented by a Grand Jury. Section 10 of the Bill of Rights of the State of Texas provides that no person shall be prosecuted for a felony unless through an indictment by a Grand Jury. Therefore, you see, Gentlemen, that your power is great, and the sphere of your influence beyond measure. If you want to know what a man really is, give him power. Nothing shows a man's character like the use of power, and during my thirty-six years' experience as a District Attorney, it is my proud boast that I have never seen a Grand Jury abuse its power.

Our Country and our Government are safe so long as the people respect and trust the Courts of the land, and it is a reciprocal duty of every Court to strive by all honorable means to merit and preserve that confidence and that respect. It is also the duty of every good citizen to devote a few days in each year to jury service, and it will be my purpose to see that every indictment presented and every ver-

dict rendered in this Court shall be the work of the honest, intelligent and responsible citizenship of this country. Abraham Lincoln said: "Gentlemen, Let reverence for the law be breathed by every American mother to her babe. Let it be taught in the schools, in colleges and in universities. Let it be preached from the pulpit, proclaimed in the legislative halls, and enforced in Courts of Justice. In fine, let it become the political religion of this country."

The American Republic, Gentlemen, through its grand jurors, through its petit jurors, through its public officers, must always be true to itself, ever ready to protect the rights of the humble, to redress every wrong, to avenge every crime, to vindicate the majesty of the law, and to preserve inviolate our sacred principles of free institutions against enemies from within and against the attacks of pernicious alien propaganda, whether armed with gold or armed with steel. Rome endured as long as there were Romans; and our dear country will endure as long as we remain Americans in spirit and in thought.

If the American continent, Gentlemen, were to sink under the ocean tomorrow, and if only a copy of the Declaration of Independence and the Constitution were rescued from the destroying waves, coming generations from other lands would know that this land had been the home of a glorious people who loved liberty and of a brave people who knew how to defend it. The examples that have been bequeathed to us by our Revolutionary Fathers have never been improved upon, and as long as we emulate and cherish the history that they made, as long as we glory in the inheritance of their blood, as long as we preserve the traditions of their valor in war and of their virtues in peace, so long will our dear country remain the shrine of patriotism and the citadel of liberty.

The law requires the Court, Gentlemen, to charge the Grand Jury at every term with reference to certain specific violations of the law, and I shall ask you to pay particular attention to all infractions of the Penal Code that might come before you for investigation. Nine members constitute a quorum for the transaction of business, and the law requires that nine members shall vote in the affirmative in order to find a bill of indictment. The foreman may excuse one or more members from time to time, provided a quorum be always present. Your District Attorney is a lawyer of ability, possessing sound judgment and a correct knowledge of the law, and you may safely follow his guidance. The Sheriff will be glad to make your quarters as comfortable as possible. I thank you, Gentlemen, for your kind attention, and I wish to apologize for this long and somewhat unusual charge. Mr. Fardwell will be your Foreman, and you may now retire to your quarters.

A JUDGE OF SPEED

Contributed by O. B. Thompkins, Boston, Mass.

It seems that some time ago, in a small town, which boasted of a local police court, presided over by a considerate, learned and scholarly gentleman of much dignity and presence, there dwelt a farmer, who owned several horses of good blood and breeding, known for their speed and stamina on the track. The farmer was also a tippler of repute and on his daily morning trips to market it was his custom, just before returning to his farm, to visit several of the grogshops, taverns and pubs along the way; the last one being just around the corner from the main street in the

town. After quaffing his fill, and a bit more than his safe capacity, he customarily reeled to his carriage and after he was safely seated he would hit his horse with the whip and go likerty larrup through the main street to the great hazard and peril of all those who were or might be in his way. Many complaints were made of such conduct and finally the majesty of the law was invoked and the farmer brought to the bar of justice. The magistrate, not wanting to have to make a record against the otherwise law-abiding farmer, in an effort to impress the gravity of his offence upon him and give him a chastening lecture, proceeded as follows: "Mr. A., you are charged with driving a horse and vehicle along the main street of this town in a reckless and dangerous manner to the danger and peril of the citizens of the town. What have you to say?" to which Mr. A. replied that he had nothing to say. The magistrate continued, "How do you plead, guilty or not guilty?" Mr. A. told the magistrate that he, A., did not know what the judge was talking about. The magistrate took another angle, continuing, "How fast were you going, Mr. A.?" "Don't know," replied A. "Were you going 5 miles an hour?" "Was I," rejoined A. "Were you going 8 miles an hour?" "Was I," answered A. "Were you going 10 miles an hour?" "Was I." Then the magistrate, losing patience, said, "How fast were you going, Mr. A.?" To which Farmer A. replied with considerable emphasis, "Damn her, if she wasn't going 2:40, I'd sell her." Whereupon the learned magistrate made a finding of guilty and imposed a modest fine.

HEAR YE! HEAR YE!

By Alma R. Miller, 622 W. State St., Grand Island, Nebr.

This is a tale of lawyer's love
  That I would here relate.
A tale of how he wooed the maid
  He wanted for a mate.

Said he, "Ah, dearest, you are fair,
  Will you be my spouse?
Darling, file your answer now,
  And I will build a house.

"You are the party of first part,
  Therefore, my dear, let's wed."
Wherefore aforesaid maiden fair
  Inclined her pretty head.

The agreement it was valid
  (Let's duly record this).
The date was set for June the 4th,
  When he would wed this miss.

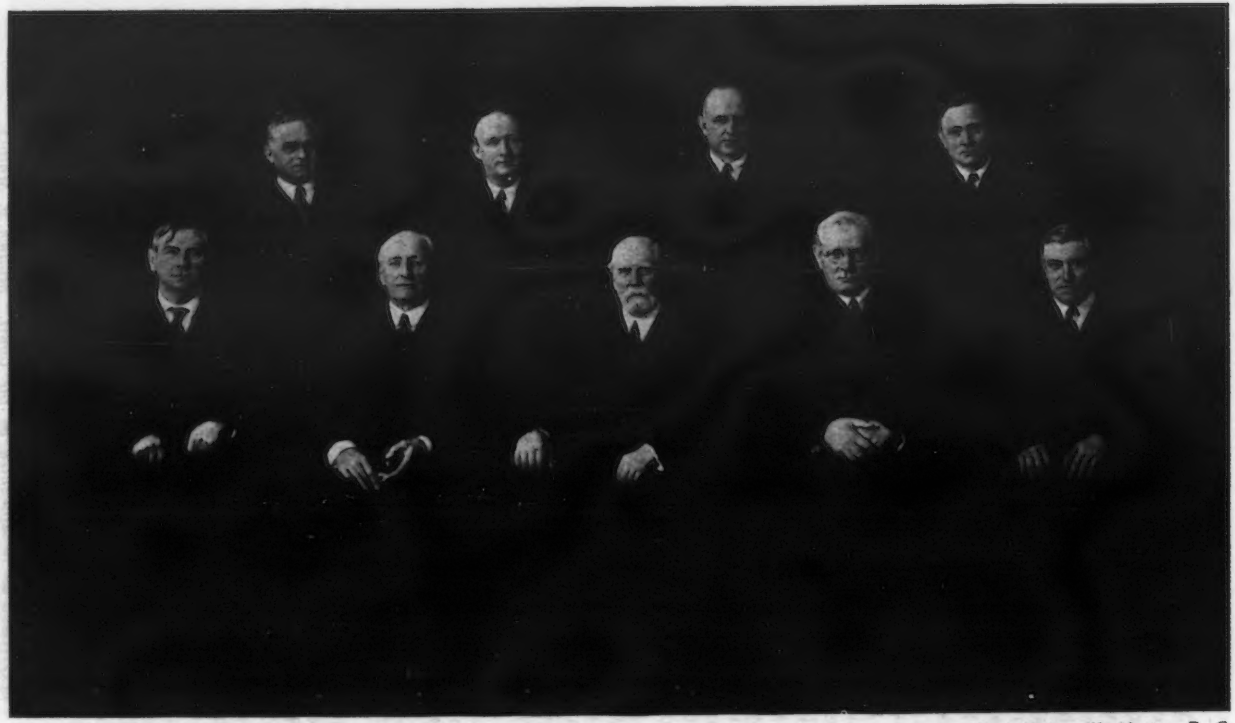
The invitations were sent out
  In consideration of
Said agreement herein described,
  Between him and his love.

The license was issued by
  The County Judge one day,
Aforesaid lawyer paid the costs;—
  The license filed away.

So on the day above set forth
  The two were joined as one,
Aforesaid two were man and wife
  E'er June the 4th was done.

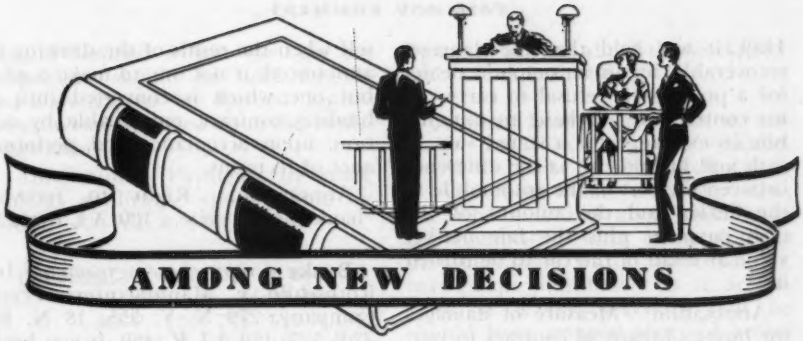
IN BEHALF OF IDOLS

A FAMILY *idol was left by will to three sons, who fought over its location. The Court held that the will of the idol as to its location must be respected, and it must appear by a disinterested next friend to be appointed by the Court. Mullick v. Mullick, L. R. 52 Ind. App. (1925).*



Harris-Ewing, Washington, D. C.

Front Row, left to right—Justices STONE, MCREYNOLDS, Chief Justice HUGHES, Justices BUTLER and ROBERTS.
Back Row, left to right—Justices FRANKFURTER, BLACK, REED and DOUGLAS.



Front Row, left to right—Justices STONE, MCREYNOLDS, Chief Justice HUGHES, Justices BUTLER and ROBERTS. *Back Row, left to right*—Justices FRANKFURTER, BLACK, REED and DOUGLAS.

A. A. A. — *proceeds of joint check.* In Southall v. Mickelson, 68 N. D. 191, 277 N. W. 601, 120 A.L.R. 693, it was held that where a landlord and tenant, in addition to the terms of their farm lease, undertake to engage in the raising, feeding, buying, and selling of livestock, each to share equally in the proceeds from the sale of such crops and livestock after certain deductions, it is held that where the parties deposited in court certain corn and hog allotment checks issued to them jointly under the Agricultural Adjustment Act, 48 Stat. at L. 31, chap. 25, 7 U. S. C. A. §§ 601 et seq., subject to the rules and regulations made pursuant to such act, but without any understanding as to the share of each, such funds should be disbursed to the parties in the proportion agreed upon in their joint venture contract relating to the division of other grain and produce but free from any claim of the other.

Annotation: Rights of parties to lease or other contract for operation of farm respectively to proceeds of A. A. A. checks. 120 A.L.R. 696.

Accountants — *liability to third persons.* In State Street Trust Co. v. Ernst, 278 N. Y. 104, 704, 15 N. E. (2d) 416, 16 N. E. (2d) 851, 120 A.L.R. 1250, it was held that public accountants may be liable to third persons for loss sustained through relying on a certified balance sheet, even in the absence of deliberate or active fraud, if a representation is certified as true to their knowledge when knowledge there is none, or if an opinion is based on grounds so flimsy as to lead to the conclusion that there was no genuine belief in its truth.

Annotation: Liability of public accountant. 120 A.L.R. 1262.

Adopted Child — *right of inheritance.* In Re Harrington, — Utah, —, 85 P. (2d) 630, 120 A.L.R. 830, it was held that the adopted son of a deceased child of a decedent does not inherit under a succession statute providing for the distribution of the estate of an intestate to his "issue," the issue of a deceased child to take, by right of representation, where the adoption statute goes no further in specifying the relation granted by an adoption than to provide that "the adopted child shall thenceforth be regarded and treated in all respects as the child of the person adopting," and that "after adoption the two shall sustain the legal relation of parent and child, and have all the rights and be subject to all the duties of that relation."

Annotation: Right of adopted child to inherit from kindred of adoptive parent. 120 A.L.R. 837.

Automobiles — *breach of contract to purchase.* In Popp v. Yuenger, — Wis. —, 282 N. W. 55, 120 A.L.R.

1189, it was held that the damages recoverable by an automobile dealer for a purchaser's refusal to carry out his contract to purchase an automobile in exchange for a stated sum in cash and his old car, is the difference between the cost of the automobile to the dealer and the amount of the cash payment plus the fair market value at retail of the car to be turned in.

Annotation: Measure of damages for buyer's breach of contract to purchase article of dealer. 120 A.L.R. 1192.

Automobiles — *inattention to driving, injuring guest.* In Bashor v. Bashor, 103 Colo. 232, 85 P. (2d) 732, 120 A.L.R. 1507, it was held that the unconscious inattention of the driver of an automobile to the road while manipulating the dial of a radio with which the car was equipped, in consequence of which he nearly overran another car, and in attempting to avoid hitting it lost control of his car, which overturned, is not a wilful and wanton disregard of the rights of others within an automobile guest statute making such disregard a basis of liability to an injured guest, where though he gave attention to the radio for a distance of nearly 2 miles, none of the passengers in the car were apprehensive of danger, or cautioned him.

Annotation: Distraction of attention of driver of automobile as affecting question of negligence, wantonness, etc., or contributory negligence. 120 A.L.R. 1513.

Bank Night — *recovery of prize.* In Dorman v. Publix-Saenger-Sparks Theatres, Inc., — Fla. —, 184 So. 886, 120 A.L.R. 403, it was held that the offer embodied in a theatre's "bank night" scheme, to pay a sum of money to one whose registration number shall be drawn if he will present himself when the result of the drawing is announced, is not one to make a gift, but one which is converted into a binding contract, enforceable by action, upon acceptance and performance of its terms.

Annotation: Right to recover "bank night" prize. 120 A.L.R. 412.

Banks — *repurchase agreement.* In Rothschild v. Manufacturers Trust Company, 279 N. Y. 355, 18 N. E. (2d) 527, 120 A.L.R. 480, it was held that a bank's unwritten agreement, on selling stocks and bonds, to repurchase them at their full purchase price upon the purchaser's demand at any time during the lifetime of such securities, is contrary to public policy, since to give it effect would create a contingent liability at variance with the bank's apparent financial stability; and this even though the bank is empowered by statute to deal in securities.

Annotation: Power of bank to agree to repurchase real estate mortgage or other securities sold by it. 120 A.L.R. 485.

Banks — *setoff as to stockholder's liability.* In Banking Commission v. Prudential Investment Co., — Wis. —, 282 N. W. 40, 120 A.L.R. 505, it was held that the amount of a voluntary assessment levied by the stockholders of a bank upon themselves in consequence of losses by which its capital had become impaired cannot be set off against an involuntary assessment levied by the state banking commissioner after taking possession of the property and business of the bank, notwithstanding a provision of the resolution under which the stockholders' assessment was levied that before being paid over to the bank it be held for a year as a trust fund for the stockholders and used for the retirement of slow and doubtful assets of the bank, and that in case the bank

should suspend within the year the assessment should be held for the stockholders, to be applied against any assessment levied upon the bank's suspension.

Annotation: Payments by stockholders applicable upon double liability. 120 A.L.R. 511.

Contempt — *inability to obey decree.* In Andrews v. McMahan, — N. M. —, 85 P. (2d) 743, 120 A.L.R. 697, it was held that inability of an alleged contemner, without fault on his part, to render obedience to a decree of court, is a good defense.

Annotation: Inability to comply with judgment or order as defense to charge of contempt. 120 A.L.R. 703.

Contracts — *immoral consideration.* In Zytka v. Dmochowski, — Mass. —, 18 N. E. (2d) 332, 120 A.L.R. 470, it was held that a woman who has intrusted a man with money in consideration of an illicit relationship between them has no standing to invoke the aid of equity to compel its repayment.

Annotation: Illicit sexual relations between man and woman as affecting right of either to recover money paid or property transferred to other. 120 A.L.R. 475.

Corporations — *improper diversion of funds.* In Keenan v. Eshleman, — Del. —, 2 A. (2d) 904, 120 A.L.R. 227, it was held that a recovery in a suit by stockholders on behalf of a going corporation to recover funds of the corporation as having been unlawfully diverted should not be limited to the pro rata share of those stockholders who have not ratified the wrongful acts complained of.

Annotation: Recovery against corporate directors or officers for fraud or mismanagement as affected by releases, ratification, waiver, or consent by some, but not all, of the stockholders. 120 A.L.R. 238.

Criminal Law — *decoy as accomplice.* In Wilson v. State, — Colo. —, 87 P. (2d) 5, 120 A.L.R. 1501, it was held that in order that one who aids and abets another in the commission of a crime that he may be caught while committing it, may escape punishment as an accomplice, it is not necessary that he should have stopped short of actual participation.

Annotation: Criminal responsibility of one who acts as decoy to detect commission of crime. 120 A.L.R. 1506.

Criminal Law — *leave of court to file information.* In State v. District Court, — Mont. —, 84 P. (2d) 979, 120 A.L.R. 353, it was held that an application for leave of court to file an information is not to be granted as a matter of course, but sufficient facts and information must be presented to the court to move its discretion.

Annotation: Leave of court to file information. 120 A.L.R. 358.

Damages — *loss of enjoyment.* In Hogan v. Santa Fe Trail Transportation Co., 148 Kan. 720, 85 P. (2d) 28, 120 A.L.R. 520, it was held that "loss of enjoyment" resulting to a musician (a violinist), by reason of a personal injury which incapacitated her to play the violin, is not a proper element of damages, such damages being too conjectural and speculative in their nature and impossible or too difficult of measurement to form a substantial basis for recovery.

Annotation: Loss of enjoyment as an element of, or factor in determining, damages for bodily injury. 120 A.L.R. 535.

Divorce — *habitual intemperance.* In Broderick v. Broderick, — La. —,

186 So. 5, 120 A.L.R. 1173, it was held that intoxication on two or three occasions during a period of four months does not constitute habitual intemperance within a statute authorizing the granting of a decree of separation for habitual intemperance which renders living together insupportable.

Annotation: What amounts to habitual intemperance, drunkenness, etc., within statute relating to substantive grounds for divorce. 120 A.L.R. 1176.

Evidence — *death in course of employment.* In Sullivan v. Suffolk Peanut Company, 171 Va. 439, 199 S. E. 504, 120 A.L.R. 677, it was held that where an employee is found dead as the result of an accident at his place of work or near by, where his duties may have called him during the hours of his work, and there is no evidence offered to show what caused the death or to show that he was not engaged in his master's business at the time, the court will indulge the presumption that the relation of master and servant existed at the time of the accident, and that it arose out of and in the course of his employment.

Annotation: Workmen's compensation: presumption or inference that accidental death of employee arose out of and in course of employment. 120 A.L.R. 683.

Evidence — *failure to object.* In American Workmen v. Ledden, — Ark —, 120 S. W. (2d) 346, 120 A.L.R. 201, it was held that the direction of a verdict for plaintiff is proper where defendant's only evidence is hearsay, though it was brought out by or admitted without objection on the part of the plaintiff.

Annotation: Objectionable evidence, admitted without objection, as entitled to consideration on demurrer to evidence or motion for nonsuit or directed verdict. 120 A.L.R. 205.

Evidence — *hospital record.* In Clayton v. Metropolitan Life Insurance Co., — Utah, —, 85 P. (2d) 819, 120 A.L.R. 1117, it was held that those portions of the hospital record of a patient who had undergone a surgical operation, consisting of several sheets attached together, which were not signed by or in the handwriting of the operating surgeon on whose cross-examination they were sought to be introduced, are insufficiently authenticated to be admissible in evidence where the witness did not know whether the sheets comprising the record when offered were the ones included when he signed the top sheet, he had not read some of them and had not intended his signature on the top sheet to authenticate the entire record, and there is no showing that the record was taken from the hospital's custody, and that the method of compilation and preservation was such as to guarantee trustworthiness.

Annotation: Admissibility of hospital chart or other hospital record. 120 A.L.R. 1124.

Evidence — *other negligent acts.* In Guedon v. Rooney, — Or. —, 87 P. (2d) 209, 120 A.L.R. 1298, it was held that proof of specific acts of carelessness and recklessness in the operation of an automobile is admissible to show the operator's incompetence in a case in which it is sought to hold the owner of an automobile liable on the ground of negligence in intrusting his car to an incompetent driver.

Annotation: Evidence of specific acts or reputation as admissible to prove incompetency of motor vehicle driver, or defendant's knowledge thereof, in action against one permitting alleged incompetent to drive. 120 A.L.R. 1311.

Evidence — *waiver or estoppel.* In Commercial Standard Insurance Co. v. Remay, 58 Idaho, 302, 72 P. (2d) 859, 120 A.L.R. 1, it was held that evidence of waiver of or estoppel to assert the failure of the buyer of an automobile under a conditional sale contract to comply with its terms is inadmissible under a general denial in an action growing out of the resumption of possession by the seller's assignee.

Annotation: Pleading waiver, estoppel and res judicata. 120 A.L.R. 8.

Executors — *what claims must be presented.* In Lowry v. Crandall, — Ariz. —, 83 P. (2d) 1003, 120 A.L.R. 271, it was held that claims for services rendered to decedent in his last illness are within the operation of a statute requiring claims against the decedent arising upon contract to be presented to the personal representative for allowance before action may be brought on them; but claims for funeral expenses are not.

Annotation: Claims for expenses of last sickness or for funeral expenses as within contemplation of statute requiring presentation of claims against decedent's estate, or limiting the time for the bringing of action thereon after rejection by personal representative. 120 A.L.R. 275.

Flag Salute — *constitutionality of requirement.* In People v. Sandstrom, 279 N. Y. 523, 18 N. E. (2d) 840, 120 A.L.R. 646, it was held that the constitutional guaranty of religious freedom is not infringed by requiring public school pupils, with a view to inculcating patriotism, to participate in the ceremony of saluting the flag, even though the pupil may believe that to do so is to disobey the Biblical injunction against idolatry.

Annotation: Power of legislature or school authorities to prescribe and enforce oath of allegiance, "salute to flag," or other ritual of a patriotic character. 120 A.L.R. 655.

Full Faith and Credit — *deficiency judgment.* In Right Reverend George Craig Stewart, Bishop of Protestant Episcopal Church, Diocese of Chicago, etc. v. William L. Eaton, 287 Mich. 466, 283 N. W. 651, 120 A.L.R. 1354, it was held that no denial of full faith and credit to judicial proceedings in a sister state is involved in permitting a mortgagor to set up as a defense to an action for a deficiency that through fraud or mismanagement the mortgaged property was sold on foreclosure proceedings in another state, to which the mortgagor was not a party, and bid in by the mortgagee, for less than its fair market value.

Annotation: Judicial foreclosure of mortgage as affecting one who was not personally served within jurisdiction and did not appear, as regards the value of the property or the adequacy of the bid in the foreclosure, in a subsequent action to enforce his personal liability on the obligation secured by the mortgage. 120 A.L.R. 1366.

Garage — *liability of keeper.* In Palmer v. Boston Penny Savings Bank, — Mass. —, 17 N. E. (2d) 899, 120 A.L.R. 633, it was held that one conducting a public garage is bound to keep the premises in a reasonably safe and suitable condition for the use of those who enter thereon for the purpose of transacting the business for which the property is maintained.

Annotation: Liability of owner or operator of garage or parking place for personal injury to persons other than employees. 120 A.L.R. 638.

Grand Jury — *investigating executive office.* In Re Investigation by

Dauphin County Grand Jury, — Pa. —, 2 A. (2d) 783, 120 A.L.R. 417, it was held that the official conduct of the executive branch of the government is not to be subjected to investigation by a grand jury even where the commission of a crime is charged in connection with, or as a result of, acts performed by the executive branch of the government in its official capacity.

Annotation: Matters within investigating power of grand jury. 120 A.L.R. 437.

Husband and Wife — *contract for support between.* In Garlock v. Garlock, 279 N. Y. 337, 18 N. E. (2d) 521, 120 A.L.R. 1331, it was held that a contract whereby in consideration of the wife's undertaking to pay her own expenses, other than those incurred by reason of sickness or personal injury, a husband undertakes to pay his wife a stated annual sum, is void as against the policy of the law, even though the sum is an ample one, where the husband and wife are living together and the contract is not entered into with any thought of separation.

Annotation: Agreement not in contemplation of divorce for release of wife's right to support as contrary to statute or public policy. 120 A.L.R. 1334.

Husband and Wife — *oral agreement as to community property.* In McDonald v. Lambert, — N. M. —, 85 P. (2d) 78, 120 A.L.R. 250, it was held that a statute providing that either husband or wife may enter into any engagement or transaction with the other respecting property which either might if unmarried does not afford a basis for the transmutation of separate property into community property by a mere oral agreement.

Annotation: Transmutation of separate into community property by agreement or gift between husband and wife, or transfer or conveyance by one to the other. 120 A.L.R. 264.

Income Taxes — *"obsolescence."* In State Line & Sullivan Railroad Co. v. Phillips, 98 F. (2d) 651, 120 A.L.R. 441, it was held that the degree of proof that property will become worthless at a time specified, necessary to establish the right to a deduction for obsolescence in ascertaining taxable income, is not reasonable certainty, but merely such weight of evidence as would reasonably support a verdict for a plaintiff in an ordinary action for the recovery of money.

Annotation: "Obsolescence" for which deduction may be claimed in computing income tax. 120 A.L.R. 446.

Income Tax — *salary of Federal employee.* In Graves v. People, — U. S. —, 83 L. ed. (Adv. 577), 59 S. Ct. 595, 120 A.L.R. 1466, it was held that the imposition by a state of a nondiscriminatory income tax in respect of the salary of an employee of a corporate instrumentality of the Federal Government does not place an unconstitutional burden on the Federal Government where Congress has not conferred on the salaries of the employees of such instrumentality an immunity from state taxation.

Annotation: Income tax in respect of salaries of public officers and employees. 120 A.L.R. 1477.

Libel — *report of judicial proceeding.* In Bowerman v. Detroit Free Press, 287 Mich. 443, 283 N. W. 642, 120 A.L.R. 1230, it was held that the privilege attaching to a report of judicial proceedings extends only to a correct report, even though the inaccuracy is unintentional and the result of a mistake.

Annotation: Libel and slander: garbled, inaccurate, or mistaken re-

port of judicial proceedings as within privilege. 120 A.L.R. 1236.

Landlord and Tenant — *waiver of notice to quit.* In Barlow v. Hoffman, — Colo. —, 86 P. (2d) 239, 120 A.L.R. 552, it was held that a lessor's voluntary dismissal of an action of unlawful detainer against his lessee does not prevent a previous notice to pay arrears of rent or quit from operating as a termination of the lease and the consequent liability for rent thereunder.

Annotation: Waiver or revocation by landlord of notice given by him to terminate tenancy. 120 A.L.R. 557.

License — *compensation on revocation of.* In Baltimore v. Brack, — Md. —, 3 A. (2d) 471, 120 A.L.R. 543, it was held that a licensee to use lands of another, upon the revocation of the license, can claim compensation for expenditures made by him upon the premises on the faith of the license, only as against the original licensor.

Annotation: Right of licensee for use of real property to compensation for expenditures upon revocation of license. 120 A.L.R. 549.

Master and Servant — *relation of taxicab operators.* In Meridian Taxicab Co. v. Ward, — Miss. —, 186 So. 636, 120 A.L.R. 1346, it was held that the driver of a taxicab owned by a third person by whom he was engaged and to whom he turns over fares collected, less his commission, is, as respects liability for negligent injury to a passenger, also the servant of the taxicab company by which his operations are directed and which has a rule that it will not give a call to a driver who has been drinking intoxicating liquor, and requires that drivers be courteous and careful, although the taxicab company's only interest in the operation of the taxicab is the fixed sum which it receives from the owner for each day when it is in service.

Annotation: Relation between taxicab company or one holding himself out as furnishing taxicab service, and drivers or owners of cars not owned by company, as regards responsibility for injury or damage. 120 A.L.R. 1351.

Moratory Legislation — *validity of extension.* In First Trust Joint Stock Land Bank of Chicago v. Arp, — Iowa, —, 283 N. W. 441, 120 A.L.R. 932, it was held that a statute extending the operative period of moratory legislation providing for the continuance of pending mortgage foreclosures and extension of the time of redemption from sales on execution is unconstitutional as impairing the obligation of contracts where at the time of its enactment the period of financial and economic stress which gave rise to the original moratorium act was ended.

Annotation: Constitutionality of statute extending or re-enacting moratorium act as affected by termination or alleged termination of emergency. 120 A.L.R. 937.

Mortgage — *place of sale.* In Bowman v. Caldwell, — Neb. —, 283 N. W. 194, 120 A.L.R. 657, it was held that when a notice of foreclosure sale stated that the sale would be held at the "east front door" of the courthouse, held that, where the officer conducted the sale inside the east front door, and at the top of a short flight of stairs leading from said door, there was a substantial compliance with the notice, and the sale was valid.

Annotation: Validity of judicial, execution, tax, or other public sale as affected by the particular point in courthouse or other place identified by notice, or designated by statute or

by mortgage or trust deed, at which the sale was made, or by indefiniteness of notice as regards that point. 120 A.L.R. 660.

Negligence — *voluntarily aiding helpless person.* In Owl Drug Company v. Crandall, — Ariz. —, 80 P. (2d) 952, 120 A.L.R. 1521, it was held that one who, being under no duty to do so, takes charge of another who is helpless adequately to aid or protect himself, is liable for personal injuries to such other through failure to exercise reasonable care for such other's safety, or if by discontinuing his aid or protection he has left the other in a worse position than when he took charge.

Annotation: Duty and liability of one who voluntarily undertakes to care for injured person. 120 A.L.R. 1525.

New Trial — *remarks of prosecuting officer.* In Allen v. State, — Ga. —, 200 S. E. 109, 120 A.L.R. 495, it was held that it is not sufficient cause for the granting a new trial that the solicitor general argued "that the jury could, under the statute, Code 1933, § 26–1005, recommend mercy, but that the lawmakers who wrote that statute knew that the jury would be men who before making such recommendation would look to the facts and circumstances of the case they were trying, before such recommendation would be made," and that the court, in denying the motion to declare a mistrial, said: "The solicitor stated to the jury that they had a prerogative, a high prerogative as a matter of right to recommend mercy."

Annotation: Comments by prosecuting attorney regarding jury's right or privilege to recommend or fix punishment. 120 A.L.R. 502.

Officers — *residence.* In Bigney v. Commonwealth, — Mass. —, 16 N. E. (2d) 573, 120 A.L.R. 669, it was held that nonresidence in a district does not render one ineligible for election as a member of the Governor's advisory council by the voters of such district where the constitutional provision for the division of the state into districts, each of which is "entitled to elect one councilor," makes no provision as to eligibility other than residence in the state for the term of five years immediately preceding election, and in the case of other officers express provision is made that the officer shall be a resident of the district by which he is elected, and in providing for the filling of vacancies in the council the legislature is restricted in its choice to the people of the district wherein the vacancy occurs.

Annotation: Residence or inhabitancy within district or other political unit for which he is elected or appointed as a necessary qualification of officer or candidate, in absence of express provision to that effect. 120 A.L.R. 672.

Pari Delicto — *exception to rule.* In Fergus County v. Osweiler, — Mont. —, 86 P. (2d) 410, 120 A.L.R. 1457, it was held that while generally a party to an illegal contract will not be permitted to enforce it, yet if refusal to enforce it would produce a harmful effect on parties for whose protection the law making the bargain illegal exists, it will be enforced.

Comment Note: Exception to principle of pari delicto where refusal of relief would involve harmful effect on persons for whose protection the law made the transaction illegal. 120 A.L.R. 1461.

Poor Funds — *effect of state and Federal aid.* In Wrobleski v. Town of Swan River, — Minn. —, 283 N. W. 399, 120 A.L.R. 618, it was held that relief furnished to a pauper from

state and Federal funds is not relief from the poor fund of a county.

Annotation: Poor relief from Federal or state funds as affecting rights of applicant for relief from county, town, or municipality poor funds, or rights as between counties, towns, or municipalities in that regard. 120 A.L.R. 621.

Probate Judgment — *collateral attack.* In Baumann v. Katzenmeyer, — Minn. —, 283 N. W. 242, 120 A.L.R. 627, it was held that a final decree of distribution of the probate court is not subject to collateral attack and void for uncertainty of description, where it assigns all the property of the deceased to the heir entitled thereto without having described the property with particularity, even though such property is not described in the inventory.

Annotation: Failure of decree or order of distribution of decedent's estate to describe specifically the property or property interests involved, or misdescription thereof. 120 A.L.R. 630.

Wills — *term "contents" of house.* In Old Colony Trust Co. v. Hale, — Mass. —, 18 N. E. (2d) 432, 120 A.L.R. 1207, it was held that in determining what passes under the term "contents" in a testamentary gift of a house and its contents not otherwise bequeathed, the word "contents," being a word of comprehensive meaning, must receive its full import unless some very distinct ground can be derived from the context and a consideration of the will as a whole, in accordance with the settled rules governing its construction, for regarding it as used in a special and restricted sense.

Annotation: What passes under term "contents" in will. 120 A.L.R. 1210.

THE HUMOROUS SIDE

What Would You Have Done? A prominent lawyer was representing the plaintiff in the trial of an accident case. The attorney for the defendant was well dressed and very good looking. Early in the trial the plaintiff's attorney saw his opponent wink at a young woman on the jury. He was perturbed when the young woman returned a smile for the wink. Should he tell the judge and demand a mistrial? But the judge had not seen the exchange of pleasantries and in any event might think it was a trivial complaint and then the particular juror would be beyond hopes antagonized. He decided not to run this risk and continued with the trial of the case. As the case developed the friendly relationship between the woman juror and the defendant's attorney appeared to grow. The plaintiff's attorney began to regret that he had passed up the opportunity for a mistrial. To his amazement the jury promptly returned a verdict for $5,000 for the plaintiff. After a few discreet inquiries it developed that the woman juror took the position that she wouldn't be flirted with by any young whippersnapper and made up her mind that that wink would cost him at least $5,000. After once having made up her mind—well she was only a woman. In the interest of justice it should be said that it was a clear case of negligence with both the facts and the law on the plaintiff's side.

—The Journal Cleveland Bar Ass'n.

Hole Brought into Municipal Court. A "hole in the ground," that well-known aperture which has been the subject of general debate for years on end, was brought into court in Lincoln in a specific case Friday.

This particular hole was dug up and placed in a box about two feet square and ten inches deep and entered in Municipal Court as an exhibit in a minor damage suit brought by Carl Reller against the Lincoln Coca Cola Bottling Co.

Reller, who recently took over the former Chicken Little Inn on East O street, claimed that the company removed a large advertising sign from the property after he took possession and refused to return it. Hence the suit. The company claims it had erected the sign near the curb on city property and hence it did not belong to the Inn.

In order to disprove the company's contention that the sign, held in place by a 4x4 set in concrete, was held by a post set in a certain hole, Reller dug up the hole the company contended the post was in. He argues that the hole was not large enough to hold a post of such dimensions. He said the actual hole was further back, on his property.

Contributor: Ivan Blevens,
Seward, Neb.

Only Once a Day. "Yeah," said Unc Zeke, "In the old time gambling halls, house rules were the law of all games. They could change the regular or accepted rules of any game.

"One day, a newcomer to a little mining town dropped into the local Palace of Chance and took a seat at the poker table. He drew four aces and bet them to the limit. When the showdown came, he reached out to scoop in the pot from his opponent, who had bet wildly on a pair of deuces.

" 'Wait there, stranger,' said the man who had bet on a pair of deuces. 'The pot's mine.'

" 'What you mean, it's yours?'

" 'House rules—read 'em, brother,' he said. 'I got a possum-farrago.'

"The man went over to where the rules were posted and the very first rule said:

'The possum-farrago, which consists of two deuces, beats any hand in the deck.'

"The man returned to play, and in a little while he drew two deuces and bet his roll. When his adversary spread out a royal flush and reached for the pot, the newcomer said: 'Hold on—I got a possum-farrago.'

" 'What of it?' asked the player. 'Read the rules.'

"Down near the end of the long list of house rules the man read:

" 'The possum-farrago is good only once during the day.' "

Better Left Unsaid. A member of the American Legion of Twins Falls, Idaho, has a little daughter, who was brought to Boise to see him when he was a patient in the Veterans' Hospital there recently. Included in the visit to Boise were plans to visit the state penitentiary. His wife and the children arrived in Boise early one Sunday morning, some little time before visiting hours at the hospital. While they were having breakfast in a crowded hotel dining room, the little girl, loud enough to be heard by everyone, impatiently said:

"I wish you would hurry up and eat, so we can go to the penitentiary and see daddy."—*American Legion Magazine.*

Real Friendship. Several weeks ago I rendered a bill to a client firm with whose members I have been very friendly, and as a test of that friendship I left the amount of my charges blank. Accompanying the bill which I sent, I pinned a note reading as follows:

"Dear John: I don't know how or what to fix as a charge in view of my close ties with you and the boys. You may, therefore, write your own ticket. Max."

The next day, I received a registered letter from my clients. Fearing the worst, I nervously opened it and found a signed blank check pinned to my note with the following appended:

"Dear Max: I am just as much at a loss as you are—hence check in blank enclosed. Write your own ticket. John."

I wrote my own ticket and my clients were satisfied. The friendship has continued as before.

I wonder how many of my brothers at the Bar have met with the same happy experience. All is not lost yet.

Contributor: Max Rockmore,
New York City.

Thought He Could. The night before had been a large one—and ended with one chap in the hospital. His friend Dick visited him and Nick said, "What'n Hell happened last night Dick?" "Well," said Dick, "you remember the first seven drinks we had at the bar?" "Yep." "Then you remember we ordered a case up to the room?" "Yeah." "Well, after we had gone through the case pretty thoroughly you climbed out on the window sill and said you were going to fly away," said Dick. "Why in Hell didn't you stop me?" "My Gad, Man, I thought you could fly."—*Exchange.*

How the Winner Looks to the Loser. After successfully prosecuting a matter before the Board of Supervisors of Modoc County, California, our contributor received the following poem from the opposite parties

"One in Every Town"

Busy Bum lives in this man's town,
And surely lives up to his name,
Altho' it will never be inscribed upon the roll of fame.
He struts along the public streets,
And makes folks all feel sad
For they know that such a "Nit Wit"
Grew from a little "Nit Wit" lad.
He buts into public places and ventilates his knowledge,
And makes people wonder how he ever go thru college.
He sticks his nose into politics, private affairs, and church,
But from that Holy sacetuary he will get an awful lurch,
For when Gabriel blows his horn
Early on the Reserection morn,
Busy Bum with his usual sneer
Will yell out loudly,
"You bet I'm here."
And Saint Peter will answer him and say,
"Sir, from the nature of your ratin,
You'll be Big Bummer within the House of Satin."

Contributor: B. B. Robinson,
Cedarville, Calif.

He Got Names. The telegraph-editor of a Denver newspaper complained to a country correspondent who omitted names in his stories. He wrote the man that if he neglected this essential detail in his next yarn he would be discharged.

A few days later the editor got this dispatch:

"Como, Colorado, June 8—A severe storm passed over this section this afternoon and lightning struck a barbed-wire fence on the ranch of Henry Wilson, killing three cows—their names being Jessie, Bossie and Buttercup."

If You Can. If you can start on an auto tour with the certainty of knowing where you're going—

Or if you don't have to stop every five minutes to look at your gas and oil—

Or if you make every turn and detour correctly, according to the guide book—

Or if you are driving along at just the right speed for comfort and safety—

Or if you're certain that there isn't a squeak or a rattle in the old bus—

Look around, old top; she's either asleep or she's fallen out somewhere.

Typographical Error Department. "Coach Pelham again is active on the gridiron after having been laid up for several days with a bad coed."—*Kreolite News.*

Try This on Your Wife. The lawyer drew up his chair beside his wife's sewing machine.

"Don't you think it's running too fast?" he asked. "Look out! You'll sew the wrong seam! Mind that corner, now! Slow down; careful of your finger! Steady!"

"What's the matter with you, John?" said his wife, alarmed. "I've been running this machine for years!"

"Well, dear, I was only trying to help you, just as you help me drive the car."

The Needed Evidence. During prohibition an attorney was employed to represent before the United States Commissioner an old colored man who was to have a preliminary hearing before the Commissioner on a charge of distilling liquor.

When he reached the Commissioner's office, he saw all set up a beautiful copper still.

The officers testified that there was a path leading from the defendant's house direct to the still located in a branch some few yards from his house.

On cross-examination, it was developed that there was a path that also led from the still up to another tenant's house, and the defendant's attorney argued that it could just as well have been the other tenant's still. As a matter of fact it was probably operated by both of them.

Judge Skinner, the Commissioner, at the conclusion of the evidence remarked:

"Well, it seems that there is hardly enough evidence to bind you over to the Grand Jury."

The defendant, looking over to the still, to which was tied a very bright bandana handkerchief, replied:

"Jedge, would you mind me getting my hankercher?"

The judge replied: "No, and you may give a bond for the sum of $1.000.00."

Strange to say, this case never came up. There were so many similar cases that it seemed to have gotten lost in the shuffle.

Contributor: Isaac S. Peebles, Jr.
Augusta, Ga.

Certain Justice. Several years ago, Smith, who had been a political enemy of the Mayor for some time, was arraigned before him on the charge of having committed a misdemeanor. Smith, who was an attorney, moved for a change of venue on the ground that he could not get justice in that court. His Honor expeditiously disposed of the motion with this significant dictum: "Don't worry, Mr. Smith, you'll get yours."

Contributor: E. H. Perkins,
Wellington, Ohio.

Sounds. "We had sums today," said Johnny, munching an apple and adding bitterly—"I don't like 'em." It was his first day at school and his parents thought it wiser to make no comment.

Supper over, Johnny reluctantly got out his home work and began doing his arithmetic lesson—aloud:

"2 + 2 the sunavabitch is 4."

"Johnny!" cried his mother, "what was that you said?"

Johnny went on, doggedly:

"4 + 4 the sunavabitch is 8."

"JOHNNY!" roared his father, "stop saying that!"

HOW THE COURTS USE A.L.R.

No. 3—A FOUR WAY USE

The following extract from the recent case of Bradley v. Chickasha Oil Co., Okla. 84 P. (2d) 629, demonstrates a variety of uses of AMERICAN LAW REPORTS ANNOTATED. The court had before it the effect of improper license on a truck in an accident suit.

I. For the General Rule

"As stated in the annotation in *16 A.L.R. 1108, 1117*, it is a well-established rule of law that one who does an unlawful act is not thereby placed outside the protection of the laws, but that, to have this effect, the unlawful act must have some causal connection with the injury complained of. . . . By the weight of authority it is held that the fact that a motor vehicle, or the driver of such vehicle, was not licensed, as required by statute, will not charge the owner or operator with liability for injury or damage caused by its operation on the highway, where the failure to obtain a license had no causal connection with the injury or damage.

II. Evaluating Case Law

". . . *Although the Massachusetts court held* in McDonald v. Dundon, 242 Mass. 229, 136 N. E. 264, *26 A.L.R. 1243*, that a dealer who loaned his license plates to enable the borrower to move the latter's car from one town to another was personally liable for injuries caused by him on the highway, *the annotation following* the case, *26 A.L.R. 1246 correctly observes that while that decision is good law in Massachusetts, it probably would not be followed in other jurisdictions which adhere to the general rule.* . . . See also, annotations at 35 A.L.R. 62, 68; 43 A.L.R. 1153; 54 A.L.R. 374; 100 A.L.R. 920, 926; 111 A.L.R. 1258, 1266. . . . In Maryland Refining Co. v. Duffy, 95 Okla. 16, 220 P. 846, *35 A.L.R. 52*, we followed the general rule to the effect that violation of a statute . . ."

III. Collecting Authorities

IV. Local Law Finder

This demonstrates some of the uses of A.L.R. by the courts of last resort. Incidentally on one-half page of this opinion there appear ten distinct references to A.L.R.—what a tribute to the usefulness of a publication!

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"Why father?" exclaimed Johnny, "that's just the way teacher said it."

The next morning Johnny's father called at the school. The teacher was standing at the blackboard, demonstrating.

"Now children," she said, "recite after me:
2 + 2, the sum of which is 4.
4 + 4, the sum of which is 8."

—*D. K. E. Quarterly.*

They Both Wanted to Pay. His client's case was met with a very convincing counterclaim. In sorrow he wrote the defendant's attorney offering to pay seven hundred and fifty dollars in compromise. To his relief he received the following letter in response. "The defendant says he wil give seven hundred dollars and *not a cent less.*"

Contributor: Charles B. Provence,
Brawley, Calif.

One Way Out. Magistrate Samuel S. Stradley of Greenville, S. C., who died several years ago, was one of the most beloved officials who ever held office in upper South Carolina. He held the position of City Magistrate, and while not a lawyer, he was highly educated and his decisions were rarely, if ever, disturbed by the upper Courts. Shortly before his death he delivered one of his most famous opinions. In a hotly contested criminal action, wherein a prominent landlord was prosecuting a white tenant for disposing of crops under lien, he announced at the conclusion of fervid arguments by two of his favorite young lawyer friends that he would reserve his decision for a few days. About a week later he called the two attorneys to his office, and with as much dignity as a Chief Justice of the United States Supreme Court in reading his opinion, he solemnly read: "I am trying this case in dual capacity of Judge and jury. As jury, I cannot agree; as Judge, I order a mistrial."

The case has never been decided to this day.

Contributor: James H. Price,
Greenville, S. C.

The Attorney for the Defendant. Gently he floats along amid the stumps and bushes and lily pads, casting the plug here and there in likely looking spots. Reeling in he notices that ever increasing circles center on a protruding tree skeleton and taking careful aim he casts. Never has bait flown truer to its mark and gently landing it floats quietly momentarily and under the pull of the reel commences its erratic, diving return. A flash of bronze and silver from under the tree and the artificial minnow ceases its journey—the granddaddy of the lake is fast. An instant or two of sulking, then the largest head and mouth of them all pokes itself out of the water and shakes as though with the palsy, each vibration sending a stab of fear into the heart of the fisherman lest old bronze back escape. Minutes fly during which this monster of the deep rolls up the aquatic mileage until the man with the rod is dizzy with the thrill of the battle and apprehension concerning the integrity of the tackle. Gradually the runs shorten, the tugging lunges lose their power, and slowly but surely this prize bass is reeled in close to the boat. Never has mere mortal gazed on a largemouth like this; the finny scrapper dwarfs description, perennial prevaricators though the followers of Izaak Walton are. The landing net is lowered in readiness for the coup de grace and—

"If counsel for the defendant will come back to earth the Court will now hear what he has to offer."

Contributor: B. P. Wood,
Santa Fe, N. M.

His Apple. Recently while abstracting the title to an oil and gas interest in the County of Kanawha it was necessary to trace the title through one Phillip Holesapple, whom it appeared from the records in the County Court Clerk's Office, was a one-time owner of the interest. Phillip Holesapple had executed a deed conveying the interest away to another, and it appeared from his deed of conveyance that he executed same by using his mark. The grantor's signature as appeared on the deed was thus:

his
"Phillip X Holesapple"
apple

Contributor: James Harold Martin,
Bluefield, W. Va.

Mixed Metaphor. A law student wrote a paper on the question: when a negotiable note provides for attorney's fees and several indorsers sue is the maker liable for the pyramided fees? The student concluded with this striking metaphor: "Thus the stone might roll on gathering moss ad infinitum."

Contributor: William T. Plumb, Jr.
Ithaca, N. Y.

Efficient Collector. "I will drop you A fue lines to let you know that I got the ten dollers finly of Miller he gave me A check and it bounst so I got A pissalm club and I gave to him wat he had a coming so I will tell you the rest when I will see you. * * * my least expired 23. of Nov so I am free now there isnt much doing up here jest at present there is some releasen at &10. ten dollers an acer bones and &1. an acer for 5 year Extenchen.

"So I will send you my persel check for &10. for miller oats.

"I wish you oll A mary X. M. S. and A happy new Year."

Dictated But Not Read. "Now, Miss Blogg!" boomed Jasper M. McWhurtle of the firm of McWhurtle, Levy and Filizola, to his new stenographer, "I want you to understand that when I dictate a letter I want it written as dictated, and not the way you think it should be. Understand?"

"Yes sir," said Miss Blogg meekly.

"I fired three stenographers in the past two weeks for revising my letters, see?"

"Yes sir."

"All right—take a letter!"

The next morning, Mr. O. J. Squizz, President of the Squizz Flexible Soap Company received the following:

"Mr. O. K., or A. J. something, look it up, Squizz, President of the Squizz, what a name. Flexible Soap Company, the gyps. Detroit, that's in Michigan, isn't it? Dear Mr. Squizz, hmmm:

"You're a h____ of a business man. No, start that over. He's a crook, but I can't insult him or the bum'll sue me. Our client, The Wewashemwhite Laundry Company has requested that we write to you pertaining to your recent threat to file suit against them for failing to pay a bill you are claiming against them. Go right ahead and sue. No, scratch that out. I wish they did file suit, then I'd make a fee defending it. Well, anyway. We want you to understand, no, that don't sound good. Alright let it go. We want you to understand that the last shipment of soap you sent them was of inferior quality. Please pull down your skirt. Furthermore, if you expect future orders, leave that part out. This d____ cigar is out again, and where was I. Nice bob you have. Let me see. New paragraph.

The soap you sent wasn't fit to wash clothes, no, make that a dog, with, comma, let alone the laundry, comma, and we're sending it back, period. Yours truly. Read that over, no, never mind. I won't waste any more time on that egg. I'll look at the carbon tomorrow. Sign the firm's name. We must go out for lunch soon, eh?

Contributed by:
Wallace P. Kelly and Earl I. Horowitz
of the Houston Texas Bar.

What a Man. A case has just recently come into this office entitled "Barbara _____ vs. Theodore _____." The plaintiff for her cause of action alleges that the defendant is a tavern keeper; that defendant sold certain intoxicating liquor and beer to Walter, her husband; that Walter thereupon became intoxicated and as a result of this inebriacy fell and broke his right ankle while leaving the tavern; that this injury was entirely due to the negligence of the defendant vending liquor to Walter and that Walter was confined to the hospital for a week due to the injury.

The 7th paragraph from the complaint I shall quote because it seems to the writer that it is, if nothing else, a masterpiece of connubial description:

"That by reason of the premises the plaintiff has been wrongfully deprived by the defendant of the love, affection, comfort, company, society of her husband, and the happiness and benefits she would have otherwise received from him, and has suffered great distress of body and mind, in the sum of $7500."

At this point we are constrained to stop and consider the myopic achievements of husband Walter. We can only compare him with one personage of the present moon—War Admiral, and it seems to us that even this famous character fades into insignificance when set beside the brilliance of Walter's connubial accomplishments—What A Man.

Contributor: Edward Yockey, Jr.
Milwaukee, Wisc.

The Best of Fees.

"Fee simple and the simple fee,
And all the fees entail
Are nothing when compared to thee,
Thou best of fees, fe-male."
—*Gallard's Journal.*

Contributor: Albert D. Alcorn,
Cincinnati, Ohio.

for

Princeton University,
The Library,
Princeton,N.J.